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LEGISLATIVE HISTORY

Public Law 87-328

H. J. Res. 225

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## INDEX AND SUMMARY OF H. J. RES. 225

Feb. 9, 1961	Sen. Clark and others introduced S. 856 which was referred to the Senate Public Works Committee. Print of bill as introduced and remarks of Sen. Clark.
Feb. 15, 1961	Rep. Walter introduced H. J. Res. 225 which was referred to the House Judiciary Committee. Print of bill as introduced.
Apr. 17, 1961	House subcommittee voted to report H. J. Res. 225 to the full committee.
Apr. 25, 1961	House committee voted to report (but did not actually report) H. J. Res. 225.
Apr. 26, 1961	House committee reported H. J. Res. 225 without amendment. H. Report No. 310. Print of bill and report.
May 15, 1961	House passed over H. J. Res. 225 without prejudice.
Jun. 5, 1961	House passed over H. J. Res. 225 without prejudice.
Jun. 27, 1961	House Rules Committee granted a rule for consideration of H. J. Res. 225. (Daily Digest)
Jun. 28, 1961	House Rules Committee reported a resolution for consideration of H. J. Res. 225. H. Res. 363 and H. Report No. 603. Print of resolution and report.
Jun. 29, 1961	House passed H. J. Res. 225 with an amendment.
Jul. 5, 1961	H. J. Res. 225 was referred to the Senate Judiciary Committee. Print of bill as referred.
Jul. 7, 1961	H. J. Res. 225 was referred to the Senate Interior Committee after the Judiciary Committee had completed consideration of the measure.
Aug. 29, 1961	Senate committee voted to report (but did not actually report) H. J. Res. 225.
Aug. 31, 1961	Senate committee reported H. J. Res. 225 with amendment. S. Report No. 854. Print of bill and report.
	H. J. Res. 225 referred to Senate Interior and Insular Affairs Committee.



INDEX AND SUMMARY OF H. J. Res. 225 Cont'd

Sept. 8, 1961	Senate committee voted to report (but did not actually report) S. 856.
Sept. 11, 1961	Senate committee voted to report (but did not actually report) H. J. Res. 225.
Sept. 12, 1961	Senate committee reported S. 856 with amendment. S. Report No. 985. Print of bill and report.
Sept. 14, 1961	Senate committee reported H. J. Res. 225 with additional amendments. S. Report No. 1032. Print of bill and report.
Sept. 15, 1961	Senate passed with amendments H. J. Res. 225.  Further consideration of S. 856 was indefinitely postponed.
Sept. 16, 1961	House agreed to Senate amendments to H. J. Res. 225.
Sept. 27, 1961	Approved: Public Law 87-328.



## DIGEST OF PUBLIC LAW 87-328

DELAWARE RIVER BASIN COMPACT. Creates a regional agency by inter-governmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, including the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and defines the functions, powers, and duties of the regional agency.









34. RECREATION. S. 857, by Sen. Randolph, to authorize the Secretary of the Army to modify certain leases entered into for the provision of recreation facilities in reservoir areas; to Public Works Committee.  
S. 857, by Sen. Saltonstall, to provide for establishment of Cape Cod National Seashore Park; to Interior and Insular Affairs Committee. Remarks of author pp. 1768-72  
H. R. 4064, by Rep. Brademas, and H. R. 4107, by Rep. Green, to establish a Federal Recreation Service in the Department of Health, Education, and Welfare; to Education and Labor Committee.
35. FARM PROGRAM. H. R. 4051, by Rep. Adair, to free farmers from Government control; to Agriculture Committee.  
H. R. 4133, by Rep. Latta, to establish a cropland adjustment program; to Agriculture Committee.  
H. R. 4147, by Rep. Marshall, to amend section 416 of the Agricultural Act of 1949 (7U.S.C. 1431), as amended; to Agriculture Committee.
36. WATER POLLUTION. S. 861, by Sen. Humphrey, to amend the Federal Water Pollution Control Act to provide for a more effective program of water pollution control; to Public Works Committee. Remarks of author p. 1786  
H. R. 4036, by Rep. Blatnik, H. R. 4037, by Rep. Smith, Miss., H. R. 4038, by Rep. Dingell, H. R. 4039, by Rep. Burke, Ky., H. R. 4040, by Rep. Davis, Tenn., H. R. 4041, by Rep. Fallon, H. R. 4042, by Rep. Green, Ore., H. R. 4043, by Rep. Kastenmeier, H. R. 4044, by Rep. Johnson, Calif., H. R. 4045, by Rep. Johnson, Wis., H. R. 4046, by Rep. Lankford, H. R. 4047, by Rep. Moss, H. R. 4048, by Rep. Price, H. R. 4049, by Rep. Rogers, Colo., H. R. 4050, by Rep. Ullman, to amend the Federal Water Pollution Control Act to provide for a more effective program of water pollution control; to Public Works Committee.
37. SMALL BUSINESS. S. 836, by Sen. Proxmire, to amend the Small Business Act; to Banking and Currency Committee. Remarks of author pp. 1759-60  
S. 902, by Sen. Sparkman, to amend the Small Business Investment Act of 1958; to Banking and Currency Committee.
38. PERSONNEL. H. R. 4078, by Rep. Daniels, and H. R. 4086, by Rep. Fino, to provide for recognition of Federal employee unions and to provide procedures for the adjustment of grievances; to Post Office and Civil Service Committee.  
S. 842, by Sen. Johnston, to amend Section 507 of the Classification Act of 1949, as amended, with respect to the preservation of basic compensation in downgrading actions; to Post Office and Civil Service Committee.  
S. 889, by Sen. Moss, to amend the Federal Employees' Compensation Act Amendments of 1960 so as to extend for 4 years the period of retroactivity of certain amendments made by section 202 of such act; to Labor and Public Welfare Committee.  
H. R. 4052, by Rep. Adair, to amend the Civil Service Retirement Act to grant the annuities of surviving spouses for the lifetimes of such spouses in certain cases; to Post Office and Civil Service Committee.  
H. R. 4057, by Rep. Ashley, to amend section 6 of the Act of August 24, 1912, as amended, with respect to the recognition of organizations of postal and Federal employees; to Post Office and Civil Service Committee. Remarks of author pp. 1925-6  
H. R. 4058, by Rep. Ashley, to permit withholding on the compensation of Federal employees for purposes of income taxes imposed by certain municipalities; to Ways and Means Committee.



H. R. 4061, by Rep. Barrett, to extend the application of the Classification Act of 1949 to certain positions in, and employees of, the executive branch of the Government; to Post Office and Civil Service Committee.

H. R. 4080, by Rep. Daniels, to amend the Civil Service Retirement Act of May 29, 1930, to permit the retirement on full annuities, without regard to age, of those officers and employees with 30 years or more of service; to Post Office and Civil Service Committee.

H. R. 4092, by Rep. Fino, to amend the Hatch Act to permit all officers and employees of the Government to exercise the full responsibility of citizenship and to take an active part in the political life of the United States; to House Administration Committee.

H. R. 4097, by Rep. Fulton, to amend the Civil Service Retirement Act to liberalize the standard for determining the earning capacity of disability annuitants and to permit the restoration of disability annuities in certain cases; to Post Office and Civil Service Committee.

H. R. 4099, by Rep. Fulton, to extend health benefits to the survivors of retiree annuitants who died before April 1, 1948; to Post Office and Civil Service Committee.

H. R. 4100, by Rep. Fulton, to make the civil service retirement and disability fund available for annuity benefits authorized by law; to Post Office and Civil Service Committee.

H. R. 4102, by Rep. Fulton, to amend the Civil Service Retirement Act, as amended, to provide annuities for surviving spouses without deduction from original annuities; to Post Office and Civil Service Committee.

39. MINERALS. S. 828, by Sen. Bennett, to encourage and stimulate the production and conservation of lead and zinc in the United States through research and development by authorizing the Secretary of the Interior to contract for lead and zinc research; to Interior and Insular Affairs Committee.

40. RIVER BASIN. S. 856, by Sen. Clark (for himself and others), to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat and public recreational facilities, and defining the functions, powers and duties of such agency; to Public Works Committee. Remarks of Sen. Clark. pp. 1767-8

41. TRANSPORTATION. S. 867, by Sen. Case, N. J. (for himself and others), to establish a U. S. Department of Transportation; to Government Operations Committee. Remarks of Sen. Case. pp. 1787-9

42. CONSULTANTS. S. 884, by Sen. Magnuson, to authorize the Secretary of Commerce to procure the services of experts and consultants; to Interstate and Foreign Commerce Committee. Remarks of author. p. 1794

43. LAMB IMPORTS. S. 876, by Sen. McGee (for himself and Sen. Hickey), to provide for tariff import quotas on sheep, lambs, mutton, and lamb; to Finance Committee

44. BUILDINGS. S. 893, by Sen. Fulbright (for himself and Sen. Humphrey), to authorize the Administrator of General Services to assist in the planning and financing of the construction of county agricultural buildings; to Government Operations Committee.



"The proposal I am introducing would provide that each U.S. district court may appoint a public defender to be paid out of Federal funds, the sum to be fixed by the Judicial Conference of the United States based upon services to be performed. Provision is made for a maximum salary of \$16,000 per annum, or an amount \$2,500 less than the salary of the U.S. attorney in the district, whichever is lower. Ninety percent of the U.S. attorneys are paid between \$12,500 and \$15,000 annually, and the remainder receive between \$18,000 and \$20,000 per year. Whenever the court decides that a defendant is too poor to hire counsel, it may assign the public defender. However, the bill preserves the court's present power to appoint counsel other than the public defender and such counsel is to be paid on a case-by-case basis, with daily compensation not to exceed \$100.

"There is a key provision in the bill authorizing the Director of the Administrative Office of the U.S. Courts upon recommendation of the Judicial Conference to make grants to bar associations, legal aid societies, and similar groups giving free legal services to indigent defendants with the aggregate amount of any such grants made annually to any judicial district shall not exceed \$30,000. There are undoubtedly several areas in the country where a small expenditure of Federal funds would enable legal aid societies to expand materially the volume of work they now handle."

In New York City, where it is estimated that nearly 6 out of every 10 persons accused of criminal cases seek voluntary legal aid, the local Legal Aid Society reports that it assisted 35,123 indigent defendants during 1958. In the Federal courts of the southern and eastern districts which take in New York and 11 neighboring counties, the society was called upon to represent one or more defendants in almost 70 percent of all criminal cases tried in them.

#### LINCOLN'S BIRTHDAY NATIONAL HOLIDAY

Mr. JAVITS. Mr. President, I send to the desk for appropriate reference a bill to make the birthday of Abraham Lincoln a legal holiday. I introduce the bill on my own behalf, and on behalf of the Senators from Illinois [Mr. DIRKSEN and Mr. DOUGLAS], the Senators from Kentucky [Mr. MORTON and Mr. COOPER], and the Senators from Indiana [Mr. CAPEHART and Mr. HARTKE].

I point out that Lincoln's birthday is not a legal holiday. We have eight such holidays, of which his birthday is not one. Washington's birthday, of course, is a legal holiday. I also point out that Senators who have joined in sponsoring the bill come from the various States which Lincoln's life touched—where he was born, where he lived, and where he worked. I hope very much that in the spirit of Lincoln's birthday we may have action upon the bill.

Following Lincoln's birth in Hardin, Ky., in 1809, he moved with his family to Spencer County, Ind., in 1816 where he received much of his schooling. In 1830, Lincoln settled in Illinois where he first practiced law and soon after embarked on a career of public service.

I am delighted to have such distinguished, bipartisan sponsorship of this legislation honoring Abraham Lincoln. His historic impact on the moral conscience and the destiny of our Nation, which he sacrificed his very life to serve,

has made Abraham Lincoln an American immortal who belongs to all ages and to all our people, regardless of their political affiliation or the region in which they may live. Presently, 18 States do not observe February 12 as an official holiday. Favorable consideration of the legislation being introduced today would enable the citizens of every State in the Union to honor Lincoln as we already honor George Washington—he would become the second individual and the second President whose birthday would be celebrated throughout the land as a legal holiday.

This year, 1961, marks the 100th anniversary of the inauguration of Abraham Lincoln as the 16th President of the United States. It also signals the start of the centennial observance of the beginning of the tragic Civil War which ultimately unified our people in a march to national greatness, and social, moral, and industrial achievements unsurpassed in modern times. Once this Nation freed itself from the intolerable bonds of human slavery, America went forth to meet the challenges of the industrial revolution with all its economic might. The fundamental principles and the constitutional freedoms which Lincoln championed and which were preserved and strengthened in our Civil War are today the precious goals of most of the people in the world. Our freedom and our strength fans the flame of hope for many millions trapped behind the Iron Curtain. The accomplishments which our freedom has made possible are the aspirations of still more millions in the less developed areas who in 1961 are trying to free themselves from the bonds of poverty, disease, and illiteracy.

Historian Bruce Catton wrote in his article in last Sunday's New York Times magazine:

During the Civil War, the U.S. flag became the living symbol of hope and freedom to a great many people who had never had any of either of those things; and a century afterward, the fact that these people were Negroes, recently transplanted (against their own will) from Africa, takes on a profound meaning. Very few of our national assets today have a greater latent value than this one.

Today Abraham Lincoln is the hero of all free peoples. He has become a beloved symbol internationally of the American spirit of equality and fair play, and Lincoln's memory should have this further recognition in his native land.

Lincoln's devotion to liberty for the individual and to obtaining for him political equality and equality of opportunity are well known. His efforts at conciliation with the South, his plans to bring the blessings of liberty and its enjoyment to all Americans, and his plans to reunite the American people were unhappily cut short by an assassin's bullet.

President Lincoln bespoke the spirit which moves many of us today when he stated in his second inaugural address:

With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive to finish the work we are in.

He was a man whose principles called for the support of measured progress in the field of freedom for the individual with which he is most closely identified by history. It is our fervent hope that this measured progress may continue in the same spirit which he—and many of his southern countrymen such as Gen. Robert E. Lee—would have had it continue.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 853) to make the birthday of Abraham Lincoln a legal holiday, introduced by Mr. JAVITS (for himself and other Senators), was received, read twice by its title, and referred to the Committee on the Judiciary.

#### COMMISSION TO DEVELOP THE WATER RESOURCES OF THE DELAWARE RIVER BASIN

Mr. CLARK. Mr. President, on behalf of the Senators from New York [Mr. JAVITS and Mr. KEATING], the Senators from New Jersey [Mr. CASE and Mr. WILLIAMS], the Senators from Delaware [Mr. WILLIAMS and Mr. BOGGS], the junior Senator from Pennsylvania [Mr. SCOTT], and myself, I introduce for appropriate reference a bill to create a regional agency by intergovernmental compact for the management and control of water and related natural resources of the Delaware River Basin.

Since under rule XXV matters involving flood control, waterpower, and navigation are within the jurisdiction of the Committee on Public Works, I ask unanimous consent that the bill be referred for consideration to that committee.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CLARK. Mr. President, the Governors of the four States and the mayors of New York City and Philadelphia have approved the agreement.

The distinguished junior Senator from Delaware [Mr. BOGGS], when he was Governor of his State, participated in the drafting of the agreement. The agreement will be introduced in the legislatures of the four States in the same form as it is being introduced in Congress. It has already been introduced in the House of Representatives by Representative FRANCIS E. WALTER, of Pennsylvania.

The proposed compact is unique in providing that the Federal Government shall join as a full party to the compact. Previous interstate agreements on river basin development and other matters have merely been assented to by the Federal Government.

The compact would create a five-member commission consisting of the four Governors and an appointee of the President to plan the multipurpose use of the water of the basin, which drains 12,750 square miles and serves the domestic and industrial needs of 16 million people in the four States. The commission would have authority over flood control, water supply, pollution control, hydroelectric power production where feasible, recreation, fish and wildlife improvement, soil conservation, foresta-



tion and watershed management. Navigation would remain the exclusive concern of the Federal Government.

The compact recognizes present decisions of the Supreme Court regarding allocation of Delaware River water among the States, but provides that future applications for diversion of water will be made to the Commission, subject to appeal to the U.S. Supreme Court. Disputes would thus be settled without recourse to prolonged litigation in the lower courts.

While the Commission would establish a comprehensive plan and provide common direction for operations of the 19 Federal agencies and approximately 60 State agencies which are concerned to some degree with the water resources of the basin, it would not supersede those agencies. In the construction of dams, it would work through the Corps of Army Engineers, which is now completing a multipurpose study of the Delaware.

The Commission would be financed by appropriations, grants, and loans from Federal and State powers. It would have no taxing powers, but could issue revenue bonds and impose charges for products and services. The compact will be in effect for 100 years, with the proviso that the Federal Government may withdraw by law at any time.

Mr. President, the compact is a unique piece of proposed legislation, resulting from hard work in all four States and coordination with the Federal Government. It began as long ago as 1954. I hope it will receive the favorable consideration of the President and will become law before this session of the 87th Congress adjourns.

The PRESIDENT pro tempore. The bill will be received and appropriately referred.

The bill (S. 856) to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency, introduced by Mr. CLARK (for himself and other Senators), was received, read twice by its title, and referred to the Committee on Public Works.

Mr. KEATING subsequently said: Mr. President, I am very pleased to be a co-sponsor of this bill to create an interstate-Federal compact for the regulation of the Delaware River Basin. The four riparian States—New York, New Jersey, Pennsylvania, and Delaware—and the Federal Government will, it is hoped, become parties to this agreement for unified water planning throughout the 12,750 miles of the Delaware River watershed.

The need for this agreement is painfully evident today. The Delaware River Basin supplies about 800 million gallons of water daily to New York City and

about 100 million to New Jersey. Although it occupies less than 1 percent of the land area of the United States, the Delaware River Basin service area has 13 percent of the Nation's population and generates 17 percent of national personal income.

For the planning and regulation of this vital river basin, there are in existence at present 25 Federal agencies, 14 interstate agencies, and 43 State departments, boards, and commissions. The need for an overall authority for control and planning is obvious.

This compact has the approval of the Governors of the four States concerned and of the mayors of the two large cities that are involved. It is a very valuable instrument, carefully conceived and drawn up. The five-member commission, with one representative from each State and one appointed by the President, will have the responsibility of formulating and keeping current a comprehensive plan for the development of the water resources of the whole basin, of constructing dams, reservoirs, and other facilities, and of allocating water supplies in an equitable apportionment.

Mr. President, this is a historic document, which has been approved by the Governors and mayors involved. I hope that the Senate will give it full approval so that we may move ahead in the all-important field of water resource development.

#### CAPE COD NATIONAL SEASHORE PARK

Mr. SALTONSTALL. Mr. President, at the end of the 1st session of the 86th Congress—now almost a year and a half ago—Senator Kennedy and myself filed S. 2636, a bill to establish a Cape Cod National Seashore Park. Congressman KEITH filed a companion bill in the House. Since that time extensive consultation has been held concerning this project with planners, economists, conservationists, and officials at all levels of government. Two sets of hearings have already been held by both the House and Senate Subcommittees on Public Lands. Last June, Senator Kennedy and I presented a committee print of our bill, the revisions of which reflected testimony given and commentary offered about the project. On January 3 of this year, Congressman KEITH reintroduced the original legislation on the House side.

At the hearings last June, Senator Kennedy commented:

I am convinced that the time is ripe for the establishment of this park along the lines recommended in the bill which Senator SALTONSTALL and I filed last summer and which we have attempted to improve and clarify since that time. \* \* \* I am fully persuaded that this bill in its general conception and framework is adapted to the special requirements of a park on the lower cape.

At the same time—8 months ago—I testified:

Further delay can only inconvenience everyone and harm the basic interests of the project. Individual homeowners won't know what to do with their property. Long-range zoning and economic planning efforts of the towns will be frustrated. Further commer-

cial inroads will corrupt more of the area's natural beauty. \* \* \* We must continue to move forward before it is too late.

Today, on behalf of myself and my colleague, the junior Senator from Massachusetts [Mr. SMITH], I introduce for appropriate reference a revised bill to establish a Cape Cod National Seashore Park. This bill makes no changes in the basic provisions of the committee print of last spring, since Senator SMITH and I believe that testimony offered at the hearings and advice given by experts in the field prove them to be uniquely sound for the area involved. The new bill does contain certain boundary revisions, based on requests made after long deliberation by the respective boards of selectmen of the six lower cape towns.

We feel that this project has been thoroughly investigated by Congress, and that the basic opinion of it here on the Senate side is strongly favorable. We have talked with the chairman of the Senate Subcommittee on Public Lands, Senator BIBLE, and he informs us that he is most willing to hold final hearings to take further testimony from representatives of the local towns, the Park Service, and other interested parties at a very early date. Secretary Udall said recently that he regarded this project as priority No. 1 on the list of important seashore proposals. The bill we are introducing today has been drafted as a result of close cooperation and consultation between our offices and with the Park Service and the White House staff. Congressman KEITH is continuously very helpful to us on the project.

The boundary revisions in the new bill—involving slightly under 1,500 acres to be excluded from the original park—are made in an attempt to consider reasonably the genuine growth needs of the towns concerned and at the same time to preserve the contiguity of the park so necessary to proper administration and conservation. Boundary revisions are made in four of the six towns concerned, and in every case involve specific areas among those requested for exclusion by local officials. In a fifth town a significant change has been made in the administration and use of a body of land which will remain technically part of the park but will be excluded from the park's normal public activities. The sixth town made no boundary revision request at all.

We would like to point out that Mr. Ben H. Thompson, Chief of the Recreational Resources Planning Division of the National Park Service, testified on the cape last December that the boundaries of S. 2636 were the minimum which the Park Service could recommend considering all of the circumstances. He pointed out that the exclusions proposed at the hearings would, in the opinion of the Park Service, greatly impair the project. We mention this in order to point out candidly that the land exclusions included in the bill we are filing today, made in the interest of the local towns, already to some degree threaten sound conservation planning.

In Provincetown, our new bill excludes 332 acres of the province lands contained

87<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 856

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 1961

Mr. CLARK (for himself, Mr. CASE of New Jersey, Mr. BOGGS, Mr. JAVITS, Mr. KEATING, Mr. SCOTT, Mr. WILLIAMS of Delaware, and Mr. WILLIAMS of New Jersey) introduced the following bill; which was read twice and referred to the Committee on Public Works

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## A BILL

To create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

### PART I

### COMPACT

Whereas the signatory parties recognize the water and related resources of the Delaware Basin as regional assets vested



with local, State, and National interests, for which they have a joint responsibility; and

Whereas the conservation, utilization, development, management, and control of the water and related resources of the Delaware River Basin under a comprehensive multipurpose plan will bring the greatest benefits and produce the most efficient service in the public welfare; and

Whereas such a comprehensive plan administered by a basinwide agency will provide effective flood damage reduction; conservation and development of ground and service water supply for municipal, industrial, and agricultural uses; development of recreational facilities in relation to reservoirs, lakes, and streams; propagation of fish and game; promotion of related forestry, soil conservation, and watershed projects; protection and aid to fisheries dependent upon water resources; development of hydroelectric power potentialities; improved navigation; control of the movement of salt water; abatement and control of stream pollution; and regulation of stream flows toward the attainment of these goals; and

Whereas decisions of the United States Supreme Court relating to the waters of the basin have confirmed the interstate regional character of the water resources of the Delaware River Basin, and the United States Corps of Engineers has in a prior report on the Delaware River Basin (House Document 179, Seventy-third Congress, second session) officially recognized the need for an interstate agency and the economies that can result from unified development and control of the water resources of the basin; and

Whereas the water resources of the basin are presently subject to the duplicating, overlapping, and uncoordinated administration of some forty-three State agencies, fourteen interstate



agencies, and nineteen Federal agencies which exercise a multiplicity of powers and duties resulting in a splintering of authority and responsibilities; and

Whereas the joint advisory body known as the Interstate Commission on the Delaware River Basin (INCodel), created by the respective commissions or Committee on Interstate Cooperation of the States of Delaware, New Jersey, New York, and Pennsylvania, has on the basis of its extensive investigations, surveys, and studies concluded that regional development of the Delaware River Basin is feasible, advisable, and urgently needed; and has recommended that an interstate compact with Federal participation be consummated to this end; and

Whereas the Congress of the United States and the executive branch of the Government have recognized the national interest in the Delaware River Basin by authorizing and directing the Corps of Engineers, Department of the Army, to make a comprehensive survey and report on the water and related resources of the Delaware River Basin, enlisting the technical aid and planning participation of many Federal, State, and municipal agencies dealing with the waters of the basin, and in particular the Federal Departments of Agriculture, Commerce, Health, Education, and Welfare, and Interior, and the Federal Power Commission; and

Whereas some twenty-two million people of the United States at present live and work in the region of the Delaware River Basin and its environs, and the government, employment, industry, and economic development of the entire region and the health, safety, and general welfare of its population are and will continue to be vitally affected by the use, conserva-

tion, management, and control of the water and related resources of the Delaware River Basin; and

Whereas demands upon the waters and related resources of the basin are expected to mount rapidly because of the anticipated increase in the population of the region projected to reach thirty million by 1980 and forty million by 2010, and because of the anticipated increase in industrial growth projected to double by 1980; and

Whereas water resources planning and development is technical, complex, and expensive, and has often required fifteen to twenty years from the conception to the completion of a large dam and reservoir; and

Whereas the public interest requires that facilities must be ready and operative when needed, to avoid the catastrophe of unexpected floods or prolonged drought, and for other purposes; and

Whereas the Delaware River Basin Advisory Committee, a temporary body constituted by the Governors of the four basin States and the mayors of the cities of New York and Philadelphia, has prepared a draft of an interstate-Federal compact for the creation of a basin agency, and the signatory parties desire to effectuate the purposes thereof: Now therefore

1        *Be it enacted by the Senate and House of Representa-*  
 2        *tives of the United States of America in Congress assembled,*  
 3        That the United States hereby consents to, and joins the  
 4        States of Delaware, New Jersey, and New York and the  
 5        Commonwealth of Pennsylvania in, the following compact:

## ARTICLE 1

## SHORT TITLE, DEFINITIONS, PURPOSE AND LIMITATIONS

Section 1.1 Short Title. This act shall be known and may be cited as the Delaware River Basin Compact.

1.2 Definitions. For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(a) "Basin" shall mean the area of drainage into the Delaware River and its tributaries, including Delaware Bay;

(b) "Commission" shall mean the Delaware River Basin Commission created and constituted by this compact;

(c) "Compact" shall mean Part I of this act.

(d) "Cost" shall mean direct and indirect expenditures, commitment, and net induced adverse effects, whether or not compensated for, used or incurred in connection with the establishment, acquisition, construction, maintenance and operation of a project;

(e) "Facility" shall mean any real or personal property, within or without the basin, and improvements thereof or thereon, and any and all rights of way, water, water rights, plants, structures, machinery and equipment, acquired, constructed, operated or maintained for the beneficial use of water resources or related land uses including,

1 without limiting the generality of the foregoing, any and  
2 all things and appurtenances necessary, useful or convenient  
3 for the control, collection, storage, withdrawal, diversion,  
4 release, treatment, transmission, sale or exchange of water;  
5 or for navigation thereon, or the development and use of  
6 hydroelectric energy and power, and public recreational  
7 facilities; or the propagation of fish and wildlife; or to con-  
8 serve and protect the water resources of the basin or any  
9 existing or future water supply source, or to facilitate any  
10 other uses of any of them;

11 (f) "Federal government" shall mean the government  
12 of the United States of America, and any appropriate  
13 branch, department, bureau or division thereof, as the case  
14 may be;

15 (g) "Project" shall mean any work, service or activity  
16 which is separately planned, financed, or identified by the  
17 commission, or any separate facility undertaken or to be  
18 undertaken within a specified area, for the conservation,  
19 utilization, control, development or management of water  
20 resources which can be established and utilized independently  
21 or as an addition to an existing facility, and can be con-  
22 sidered as a separate entity for purposes of evaluation;

23 (h) "Signatory party" shall mean a state or common-  
24 wealth party to this compact, and the federal government;

25 (i) "Water resources" shall include water and related



1 natural resources in, on, under, or above the ground, includ-  
2 ing related uses of land, which are subject to beneficial use,  
3 ownership or control.

4 1.3 Purpose and Findings. The legislative bodies of  
5 the respective signatory parties hereby find and declare:

6 (a) The water resources of the basin are affected with  
7 a local, state, regional and national interest and their plan-  
8 ning, conservation, utilization, development, management  
9 and control, under appropriate arrangements for intergov-  
10 ernmental cooperation, are public purposes of the respective  
11 signatory parties.

12 (b) The water resources of the basin are subject to  
13 the sovereign right and responsibility of the signatory parties,  
14 and it is the purpose of this compact to provide for a joint  
15 exercise of such powers of sovereignty in the common in-  
16 terests of the people of the region.

17 (c) The water resources of the basin are functionally  
18 inter-related, and the uses of these resources are interde-  
19 pendent. A single administrative agency is therefore es-  
20 sential for effective and economical direction, supervision and  
21 coordination of efforts and programs of federal, state and local  
22 governments and of private enterprise.

23 (d) The water resources of the Delaware River Basin,  
24 if properly planned and utilized, are ample to meet all  
25 presently projected demands, including existing and added

1 diversions in future years and ever increasing economies and  
2 efficiencies in the use and reuse of water resources can be  
3 brought about by comprehensive planning, programming and  
4 management.

5 (e) In general, the purposes of this compact are to  
6 promote interstate comity; to remove causes of present and  
7 future controversy; to make secure and protect present devel-  
8 opments within the states; to encourage and provide for the  
9 planning, conservation, utilization, development, manage-  
10 ment and control of the water resources of the basin; to  
11 provide for cooperative planning and action by the signa-  
12 tory parties with respect to such water resources; and to  
13 apply the principle of equal and uniform treatment to all  
14 water users who are similarly situated and to all users of  
15 related facilities, without regard to established political  
16 boundaries.

17 1.4 Powers of Congress; Withdrawal. Nothing in this  
18 compact shall be construed to relinquish the functions,  
19 powers or duties of the Congress of the United States with  
20 respect to the control of any navigable waters within the  
21 basin, nor shall any provision hereof be construed in deroga-  
22 tion of any of the constitutional powers of the Congress  
23 to regulate commerce among the states and with foreign  
24 nations. The power and right of the Congress to withdraw

1 the federal government as a party to this compact or to  
2 revise or modify the terms, conditions and provisions under  
3 which it may remain a party by amendment, repeal or  
4 modification of any federal statute applicable thereto is  
5 recognized by the signatory parties.

6 1.5 Existing Agencies; Construction. It is the purpose  
7 of the signatory parties to preserve and utilize the functions,  
8 powers and duties of existing offices and agencies of govern-  
9 ment to the extent not inconsistent with the compact, and the  
10 commission is authorized and directed to utilize and employ  
11 such offices and agencies for the purpose of this compact to  
12 the fullest extent it finds feasible and advantageous.

13 1.6 Duration of Compact.

14 (a) The duration of this compact shall be for an initial  
15 period of 100 years from its effective date, and it shall be  
16 continued for additional periods of 100 years if not later than  
17 20 years nor sooner than 25 years prior to the determination  
18 of the initial period or any succeeding period none of the  
19 signatory states, by authority of an act of its legislature,  
20 notifies the commission of intention to terminate the com-  
21 pact at the end of the then current 100 year period.

22 (b) In the event that this compact should be termi-  
23 nated by operation of paragraph (a) above, the commission

1 shall be dissolved, its assets and liabilities transferred, and  
2 its corporate affairs wound up, in such manner as may be  
3 provided by act of the Congress.

## 4 ARTICLE 2

### 5 ORGANIZATION AND AREA

6 Section 2.1 Commission Created. The Delaware River  
7 Basin Commission is hereby created as a body politic and  
8 corporate, with succession for the duration of this compact,  
9 as an agency and instrumentality of the governments of the  
10 respective signatory parties.

11 2.2 Commission Membership. The commission shall  
12 consist of the Governors of the signatory states, ex officio, and  
13 one commissioner to be appointed by the President of the  
14 United States to serve during the term of office of the  
15 President.

16 2.3 Alternates. Each member of the commission shall  
17 appoint an alternate to act in his place and stead, with  
18 authority to attend all meetings of the commission, and with  
19 power to vote in the absence of the member. Unless other-  
20 wise provided by law of the signatory party for which he is  
21 appointed, each alternate shall serve during the term of the  
22 member appointing him, subject to removal at the pleasure  
23 of the member. In the event of a vacancy in the office of  
24 alternate, it shall be filled in the same manner as an original  
25 appointment for the unexpired term only.



1        2.4 Compensation. Members of the commission and  
2 alternates shall serve without compensation but may be  
3 reimbursed for necessary expenses incurred in and in-  
4 cident to the performance of their duties.

5        2.5 Voting Power. Each member shall be entitled to  
6 one vote on all matters which may come before the com-  
7 mission. No action of the commission shall be taken at  
8 any meeting unless a majority of the membership shall  
9 vote in favor thereof.

10       2.6 Organization and Procedure. The commission  
11 shall provide for its own organization and procedure, and  
12 shall adopt rules and regulations governing its meetings  
13 and transactions. It shall organize annually by the election  
14 of a chairman and vice-chairman from among its members.  
15 It shall provide by its rules for the appointment by each  
16 member in his discretion of an advisor to serve without com-  
17 pensation, who may attend all meetings of the commission  
18 and its committees.

19       2.7 Jurisdiction of the Commission. The commission  
20 shall have, exercise and discharge its functions, powers and  
21 duties within the limits of the basin, except that it may in  
22 its discretion act outside the basin whenever such action  
23 may be necessary or convenient to effectuate its powers or  
24 duties within the basin, or to sell or dispose of water, hydro-  
25 electric power or other water resources within or without

1 the basin. The commission shall exercise such power out-  
2 side the basin only upon the consent of the state in which  
3 it proposes to act.

#### 4 ARTICLE 3

##### 5 POWERS AND DUTIES OF THE COMMISSION

6 Section 3.1. Purpose and Policy. The commission  
7 shall develop and effectuate plans, policies and projects relat-  
8 ing to the water resources of the basin. It shall adopt and  
9 promote uniform and coordinated policies for water con-  
10 servation, control, use and management in the basin. It  
11 shall encourage the planning, development and financing of  
12 water resources projects according to such plans and policies.

13 3.2 Comprehensive Plan, Program and Budgets.  
14 The commission shall, in accordance with Article 13 of this  
15 compact, formulate and adopt:

16 (a) A comprehensive plan, after consultation with water  
17 users and interested public bodies, for the immediate and  
18 long range development and uses of the water resources of  
19 the basin;

20 (b) A water resources program, based upon the com-  
21 prehensive plan, which shall include a systematic presenta-  
22 tion of the quantity and quality of water resources needs of  
23 the area to be served for such reasonably foreseeable period  
24 as the commission may determine, balanced by existing and  
25 proposed projects required to satisfy such needs, including

1 all public and private projects affecting the basin, together  
2 with a separate statement of the projects proposed to be  
3 undertaken by the commission during such period; and

4 (c) An annual current expense budget, and an annual  
5 capital budget consistent with the water resources program  
6 covering the commission's projects and facilities for the  
7 budget period.

8 3.3 Allocations, Diversions and Releases. The com-  
9 mission shall have the power from time to time as need  
10 appears, in accordance with the doctrine of equitable appor-  
11 tionment, to allocate the waters of the basin to and among  
12 the states signatory to this compact and to and among their  
13 respective political subdivisions, and to impose conditions,  
14 obligations and release requirements related thereto, subject  
15 to the following limitations:

16 (a) The commission, without the unanimous consent  
17 of the parties to the United States Supreme Court decree  
18 in *New Jersey v. New York*, 347 U.S. 995 (1954), shall  
19 not impair, diminish or otherwise adversely affect the diver-  
20 sions, compensating releases, rights, conditions, obligations,  
21 and provisions for the administration thereof as provided in  
22 said decree; provided, however, that after consultation with  
23 the river master under said decree the commission may find  
24 and declare a state of emergency resulting from a drought  
25 or catastrophe and it may thereupon by unanimous consent



1 of its members authorize and direct an increase or decrease  
2 in any allocation or diversion permitted or releases required  
3 by the decree, in such manner and for such limited time as  
4 may be necessary to meet such an emergency condition.

5 (b) No allocation of waters hereafter made pursuant  
6 to this section shall constitute a prior appropriation of the  
7 waters of the basin or confer any superiority of right in re-  
8 spect to the use of those waters, nor shall any such action  
9 be deemed to constitute an apportionment of the waters of  
10 the basin among the parties hereto; provided that this para-  
11 graph shall not be deemed to limit or restrict the power of  
12 the commission to enter into covenants with respect to water  
13 supply, with a duration not exceeding the life of this com-  
14 pact, as it may deem necessary for the benefit or develop-  
15 ment of the water resources of the basin.

16 (c) Any proper party deeming itself aggrieved by ac-  
17 tion of the commission with respect to an out-of-basin diver-  
18 sion or compensating releases in connection therewith, not-  
19 withstanding the powers delegated to the commission by  
20 this compact may invoke the original jurisdiction of the  
21 United States Supreme Court within one year after such  
22 action for an adjudication and determination thereof de novo.  
23 Any other action of the commission pursuant to this section

1 shall be subject to judicial review in any court of com-  
2 petent jurisdiction.

3       3.4 Supreme Court Decree; Waivers. Each of the sig-  
4 natory states and their respective political subdivisions, in  
5 consideration of like action by the others, and in recognition  
6 of reciprocal benefits, hereby waives and relinquishes for the  
7 duration of this compact any right, privilege or power it  
8 may have to apply for any modification of the terms of the  
9 decree of the United States Supreme Court in *New Jersey v.*  
10 *New York*, 347 U.S. 995 (1954) which would increase or  
11 decrease the diversions authorized or increase or decrease  
12 the releases required thereunder, except that a proceeding to  
13 modify such decree to increase diversions or compensating  
14 releases in connection with such increased diversions may  
15 be prosecuted by a proper party to effectuate rights, powers,  
16 duties and obligations under Section 3.3 of this compact, and  
17 except as may be required to effectuate the provisions of  
18 paragraphs IIIB3 and VB of said decree.

19       3.5 Supreme Court Decree; Specific Limitations on  
20 Commission. Except as specifically provided in Sections 3.3  
21 and 3.4 of this article, nothing in this compact shall be con-  
22 strued in any way to impair, diminish or otherwise adversely  
23 affect the rights, powers, privileges, conditions and obligations

1 contained in the decree of the United States Supreme Court  
2 in New Jersey v. New York, 347 U.S. 995 (1954). To  
3 this end, and without limitation thereto, the commission shall  
4 not:

5 (a) Acquire, construct or operate any project or facility  
6 or make any order or take any action which would impede  
7 or interfere with the rights, powers, privileges, conditions or  
8 obligations contained in said decree;

9 (b) Impose or collect any fee, charge or assessment  
10 with respect to diversions of waters of the basin permitted  
11 by said decree;

12 (c) Exercise any jurisdiction, except upon consent of  
13 all the parties to said decree, over the planning, design, con-  
14 struction, operation or control of any projects, structures or  
15 facilities constructed or used in connection with withdrawals,  
16 diversions and releases of waters of the basin authorized by  
17 said decree or of the withdrawals, diversions or releases to  
18 be made thereunder; or

19 (d) Serve as river master under said decree, except  
20 upon consent of all the parties thereto.

21 3.6 General Powers. The commission may:

22 (a) Plan, design, acquire, construct, reconstruct, com-  
23 plete, own, improve, extend, develop, operate and maintain  
24 any and all projects, facilities, properties, activities and serv-



1 ices, determined by the commission to be necessary, con-  
2 venient or useful for the purposes of this compact;

3 (b) Establish standards of planning, design and opera-  
4 tion of all projects and facilities in the basin which affect its  
5 water resources, including without limitation thereto water  
6 and waste treatment plants, stream and lake recreational  
7 facilities, trunk mains for water distribution, local flood pro-  
8 tection works, small watershed management programs, and  
9 ground water recharging operations;

10 (c) Conduct and sponsor research on water resources,  
11 their planning, use, conservation, management, development,  
12 control and protection, and the capacity, adaptability and  
13 best utility of each facility thereof, and collect, compile, cor-  
14 relate, analyze, report and interpret data on water resources  
15 and uses in the basin, including without limitation thereto  
16 the relation of water to other resources, industrial water tech-  
17 nology, ground water movement, relation between water  
18 price and water demand, and general hydrological conditions;

19 (d) Compile and coordinate systematic stream stage  
20 and ground water level forecasting data, and publicize such  
21 information when and as needed for water uses, flood warn-  
22 ing, quality maintenance or other purposes;

23 (e) Conduct such special ground water investigations,

1 tests, and operations and compile such data relating thereto  
2 as may be required to formulate and administer the compre-  
3 hensive plan;

4 (f) Prepare, publish and disseminate information and  
5 reports with respect to the water problems of the basin and  
6 for the presentation of the needs, resources and policies of  
7 the basin to executive and legislative branches of the signa-  
8 tory parties;

9 (g) Negotiate for such loans, grants, services or other  
10 aids as may be lawfully available from public or private  
11 sources to finance or assist in effectuating any of the purposes  
12 of this compact; and to receive and accept such aid upon  
13 such terms and conditions, and subject to such provisions for  
14 repayment as may be required by federal or state law or  
15 as the commission may deem necessary or desirable;

16 (h) Exercise such other and different powers as may be  
17 delegated to it by this compact or otherwise pursuant to law,  
18 and have and exercise all powers necessary or convenient  
19 to carry out its express powers or which may be reasonably  
20 implied therefrom.

21 3.7 Rates and Charges. The commission may from  
22 time to time after public notice and hearing fix, alter and  
23 revise rates, rentals, charges and tolls and classifications



1 thereof, for the use of facilities which it may own or operate  
2 and for products and services rendered thereby, without  
3 regulation or control by any department, office or agency of  
4 any signatory party.

5       3.8 Referral and Review. No project having a sub-  
6 stantial effect on the water resources of the basin shall here-  
7 after be undertaken by any person, corporation or govern-  
8 mental authority unless it shall have been first submitted to  
9 and approved by the commission, subject to the provisions of  
10 Sections 3.3 and 3.5. The commission shall approve a  
11 project whenever it finds and determines that such project  
12 would not substantially impair or conflict with the compre-  
13 hensive plan and may modify and approve as modified, or  
14 may disapprove any such project whenever it finds and de-  
15 termines that the project would substantially impair or con-  
16 flict with such plan. The commission shall provide by regu-  
17 lation for the procedure of submission, review and considera-  
18 tion of projects, and for its determinations pursuant to this  
19 section. Any determination of the commission hereunder  
20 shall be subject to judicial review in any court of competent  
21 jurisdiction.

22       3.9 Coordination and Cooperation. The commission  
23 shall promote and aid the coordination of the activities and

1 programs of federal, state, municipal and private agencies  
2 concerned with water resources administration in the basin.  
3 To this end, but without limitation thereto, the commission  
4 may:

5 (a) Advise, consult, contract, financially assist, or  
6 otherwise cooperate with any and all such agencies;

7 (b) Employ any other agency or instrumentality of  
8 any of the signatory parties or of any political subdivision  
9 thereof, in the design, construction, operation and mainte-  
10 nance of structures, and the installation and management of  
11 river control systems, or for any other purpose;

12 (c) Develop and adopt plans and specifications for  
13 particular water resources projects and facilities which so  
14 far as consistent with the comprehensive plan incorporate  
15 any separate plans of other public and private organizations  
16 operating in the basin, and permit the decentralized admin-  
17 istration thereof;

18 (d) Qualify as a sponsoring agency under any federal  
19 legislation heretofore or hereafter enacted to provide financial  
20 or other assistance for the planning, conservation, utilization,  
21 development, management or control of water resources.

22 3.10 Advisory Committees. The commission may  
23 constitute and empower advisory committees, which may be  
24 comprised of representatives of the public and of federal,  
25 state, county and municipal governments, water resources

1 agencies, water-using industries, water-interest groups, labor  
2 and agriculture.

### 3 ARTICLE 4

#### 4 WATER SUPPLY

5 SECTION 4.1 Generally. The commission shall have  
6 power to develop, implement and effectuate plans and proj-  
7 ects for the use of the water of the basin for domestic,  
8 municipal, agricultural and industrial water supply. To this  
9 end, without limitation thereto, it may provide for, construct,  
10 acquire, operate and maintain dams, reservoirs and other  
11 facilities for utilization of surface and ground water resources,  
12 and all related structures, appurtenances and equipment on  
13 the river and its tributaries and at such off-river sites as  
14 it may find appropriate, and may regulate and control the  
15 use thereof.

#### 16 4.2 Storage and Release of Waters.

17 (a) The commission shall have power to acquire, oper-  
18 ate and control projects and facilities for the storage and  
19 release of waters, for the regulation of flows and supplies of  
20 surface and ground waters of the basin, for the protection of  
21 public health, stream quality control, economic development,  
22 improvement of fisheries, recreation, dilution and abatement  
23 of pollution, the prevention of undue salinity and other  
24 purposes.

25 (b) No signatory party shall permit any augmentation



1 of flow to be diminished by the diversion of any water of  
2 the basin during any period in which waters are being re-  
3 leased from storage under the direction of the commission  
4 for the purpose of augmenting such flow, except in cases  
5 where such diversion is duly authorized by this compact, or  
6 by the commission pursuant thereto, or by the judgment,  
7 order or decree of a court of competent jurisdiction.

8     4.3 Assessable Improvements. The commission may  
9 undertake to provide stream regulation in the main stream  
10 or any tributary in the basin and may assess on an annual  
11 basis or otherwise the cost thereof upon water users or any  
12 classification of them specially benefited thereby to a meas-  
13 urable extent, provided that no such assessment shall exceed  
14 the actual benefit to any water user. Any such assess-  
15 ment shall follow the procedure prescribed by law for local  
16 improvement assessments and shall be subject to judicial re-  
17 view in any court of competent jurisdiction.

18     4.4 Coordination. Prior to entering upon the execu-  
19 tion of any project authorized by this article, the commission  
20 shall review and consider all existing rights, plans and pro-  
21 grams of the signatory parties, their political subdivisions,  
22 private parties, and water users which are pertinent to  
23 such project, and shall hold a public hearing on each pro-  
24 posed project.

25     4.5 Additional Powers. In connection with any proj-



1 ect authorized by this article, the commission shall have  
2 power to provide storage, treatment, pumping and trans-  
3 mission facilities, but nothing herein shall be construed to  
4 authorize the commission to engage in the business of dis-  
5 tributing water.

## 6 ARTICLE 5

### 7 POLLUTION CONTROL

8 Section 5.1 General Powers. The commission may  
9 undertake investigations and surveys, and acquire, construct,  
10 operate and maintain projects and facilities to control poten-  
11 tial pollution and abate or dilute existing pollution of the  
12 water resources of the basin. It may invoke as complainant  
13 the power and jurisdiction of water pollution abatement  
14 agencies of the signatory parties.

15 5.2 Policy and Standards. The commission may as-  
16 sume jurisdiction to control future pollution and abate exist-  
17 ing pollution in the waters of the basin, whenever it deter-  
18 mines after investigation and public hearing upon due notice  
19 that the effectuation of the comprehensive plan so requires.  
20 The standard of such control shall be that pollution by sew-  
21 age or industrial or other waste originating within a signatory  
22 state shall not injuriously affect waters of the basin as con-  
23 templated by the comprehensive plan. The commission,  
24 after such public hearing may classify the waters of the  
25 basin and establish standards of treatment of sewage, indus-

1 trial or other waste, according to such classes including  
2 allowance for the variable factors of surface and ground  
3 waters, such as size of the stream, flow, movement, location,  
4 character, self-purification, and usage of the waters affected.  
5 After such investigation, notice and hearing the commis-  
6 sion may adopt and from time to time amend and repeal  
7 rules, regulations and standards to control such future pollu-  
8 tion and abate existing pollution, and to require such treat-  
9 ment of sewage, industrial or other waste within a time  
10 reasonable for the construction of the necessary works, as  
11 may be required to protect the public health or to preserve  
12 the waters of the basin for uses in accordance with the com-  
13 prehensive plan.

14       5.3 Cooperative Legislation and Administration. Each  
15 of the signatory parties covenants and agrees to prohibit and  
16 control pollution of the waters of the basin according to the  
17 requirements of this compact and to cooperate faithfully  
18 in the control of future pollution in and abatement of existing  
19 pollution from the rivers, streams, and waters in the basin  
20 which flow through, under, into or border upon any of such  
21 signatory states, and in order to effect such object, agrees  
22 to enact any necessary legislation to enable each such party  
23 to place and maintain the waters of said basin in a satisfac-  
24 tory condition, available for safe and satisfactory use as  
25 public and industrial water supplies after reasonable treat-

1 ment, suitable for recreational usage, capable of maintaining  
2 fish and other aquatic life, free from unsightly or malodorous  
3 nuisances due to floating solids or sludge deposits and adapt-  
4 able to such other uses as may be provided by the compre-  
5 hensive plan.

6       5.4 Enforcement. The commission may, after investi-  
7 gation and hearing, issue an order or orders upon any person  
8 or public or private corporation, or other entity, to cease  
9 the discharge of sewage, industrial or other waste into waters  
10 of the basin which it determines to be in violation of such  
11 rules and regulations as it shall have adopted for the pre-  
12 vention and abatement of pollution. Any such order or  
13 orders may prescribe the date, including a reasonable time  
14 for the construction of any necessary works, on or before  
15 which such discharge shall be wholly or partially discon-  
16 tinued, modified or treated, or otherwise conformed to the  
17 requirements of such rules and regulations. Such order shall  
18 be reviewable in any court of competent jurisdiction. The  
19 courts of the signatory parties shall have jurisdiction to en-  
20 force against any person, public or private corporation, or  
21 other entity, any and all provisions of this Article or of  
22 any such order. The commission may bring an action in its  
23 own name in any such court of competent jurisdiction to  
24 compel compliance with any provision of this Article, or



1 any rule or regulation issued pursuant thereto or of any  
2 such order, according to the practice and procedure of the  
3 court.

4 5.5 Further Jurisdiction. Nothing in this compact  
5 shall be construed to repeal, modify or qualify the authority  
6 of any signatory party to enact any legislation or enforce any  
7 additional conditions and restrictions to lessen or prevent the  
8 pollution of waters within its jurisdiction.

## 9 ARTICLE 6

### 10 FLOOD PROTECTION

11 Section 6.1 General Powers. The commission may  
12 plan, design, construct and operate and maintain projects  
13 and facilities, as it may deem necessary or desirable for flood  
14 damage reduction. It shall have power to operate such facili-  
15 ties and to store and release waters on the Delaware River  
16 and its tributaries and elsewhere within the basin, in such  
17 manner, at such times, and under such regulations as the  
18 commission may deem appropriate to meet flood conditions  
19 as they may arise.

20 6.2 Flood Plain Zoning.

21 (a) The commission shall have power to adopt, amend  
22 and repeal recommended standards, in the manner provided  
23 by this section, relating to the nature and extent of the uses  
24 of land in areas subject to flooding by waters of the Delaware  
25 River and its tributaries. Such standards shall not be deemed



1 to impair or restrict the power of the signatory parties or  
2 their political subdivisions to adopt zoning and other land  
3 use regulations not inconsistent therewith.

4 (b) The commission may study and determine the  
5 nature and extent of the flood plains of the Delaware River  
6 and its tributaries. Upon the basis of such studies, it may  
7 establish encroachment lines and delineate the areas subject  
8 to flood, including a classification of lands with reference to  
9 relative risk of flood and the establishment of standards for  
10 flood plain use which will safeguard the public health, safety  
11 and property. Prior to the adoption of any standards  
12 delineating such area or defining such use, the commission  
13 shall hold public hearings, in the manner provided by Article  
14 14, with respect to the substance of such standards. At or  
15 before such public hearings the proposed standards shall be  
16 available, and all interested persons shall be given an oppor-  
17 tunity to be heard thereon at the hearing. Upon the adop-  
18 tion and promulgation of such standards, the commission  
19 may enter into agreements to provide technical and financial  
20 aid to any municipal corporation for the administration and  
21 enforcement of any local land use ordinances or regulations  
22 giving effect to such standards.

23 6.3 Flood Lands Acquisition. The commission shall  
24 have power to acquire the fee or any lesser interest in lands  
25 and improvements thereon within the area of a flood plain

1 for the purpose of restricting the use of such property so as to  
2 minimize the flood hazard, converting property to uses ap-  
3 propriate to flood plain conditions, or preventing unwar-  
4 ranted constrictions that reduce the ability of the river chan-  
5 nel to carry flood water. Any such action shall be in accord  
6 with the standards adopted and promulgated pursuant to  
7 Section 6.2.

#### 8 6.4 Flood and Stream Stage Warnings and Posting.

9 The commission may cause lands particularly subject to  
10 flood to be posted with flood hazard warnings, and may from  
11 time to time cause flood advisory notices to be published and  
12 circulated as conditions may warrant.

### 13 ARTICLE 7

#### 14 WATERSHED MANAGEMENT

15 Section 7.1 Watersheds Generally. The commission  
16 shall promote sound practices of watershed management in  
17 the basin, including projects and facilities to retard runoff  
18 and waterflow and prevent soil erosion.

19 7.2 Soil Conservation and Forestry. The commission  
20 may acquire, sponsor or operate facilities and projects to  
21 encourage soil conservation, prevent and control erosion,  
22 and to promote land reclamation and sound forestry practices.

23 7.3 Fish and Wildlife. The commission may acquire,  
24 sponsor or operate projects and facilities for the maintenance

1 and improvement of fish and wildlife habitats related to the  
2 water resources of the basin.

3 7.4 Cooperative Planning and Operation.

4 (a) The commission shall cooperate with the appropri-  
5 ate agencies of the signatory parties and with other public  
6 and private agencies in the planning and effectuation of a  
7 coordinated program of facilities and projects authorized by  
8 this Article.

9 (b) The commission shall not operate any such project  
10 or facility unless it has first found and determined that no  
11 other suitable unit or agency of government is available to  
12 operate the same upon reasonable conditions, in accordance  
13 with the intent and purpose expressed in Section 1.5 of this  
14 compact.

15 ARTICLE 8

16 RECREATION

17 Section 8.1 Development. The commission shall pro-  
18 vide for the development of water related public sports and  
19 recreational facilities. The commission on its own account  
20 or in cooperation with a signatory party, political subdivision  
21 or any agency thereof, may provide for the construction,  
22 maintenance and administration of such facilities, subject to  
23 the provisions of Section 8.2 hereof.

1        8.2 Cooperative Planning and Operation.

2        (a) The commission shall cooperate with the appro-  
3        priate agencies of the signatory parties and with other public  
4        and private agencies in the planning and effectuation of a  
5        coordinated program of facilities and projects authorized by  
6        this article.

7        (b) The commission shall not operate any such project  
8        or facility unless it has first found and determined that no  
9        other suitable unit or agency of government is available  
10       to operate the same upon reasonable conditions, in accord-  
11       ance with the intent and purpose expressed in Section 1.5  
12       of this compact.

13       8.3 Operation and Maintenance. The commission,  
14       within limits prescribed by this article, shall:

15       (a) Encourage activities of other public agencies hav-  
16       ing water related recreational interests and assist in the  
17       coordination thereof;

18       (b) Recommend standards for the development and  
19       administration of water related recreational facilities;

20       (c) Provide for the administration, operation and main-  
21       tenance of recreational facilities owned or controlled by the  
22       commission and for the letting and supervision of private  
23       concessions in accordance with this article.

24       8.4 Concessions. The commission shall after notice  
25       and public hearing provide by regulation for the award of



1 contracts for private concessions in connection with recrea-  
2 tional facilities, including any renewal or extension thereof,  
3 upon sealed competitive bids after public advertisement  
4 therefor.

## 5 ARTICLE 9

### 6 HYDROELECTRIC POWER

7 Section 9.1 Development. The waters of the Dela-  
8 ware River and its tributaries may be impounded and used  
9 by or under authority of the commission for the generation of  
10 hydroelectric power and hydroelectric energy, in accordance  
11 with the comprehensive plan.

12 9.2 Power Generation. The commission may develop  
13 and operate, or authorize to be developed and operated,  
14 dams and related facilities and appurtenances for the purpose  
15 of generating hydroelectric power and hydroelectric energy.

16 9.3 Transmission. The commission may provide fa-  
17 cilities for the transmission of hydroelectric power and hydro-  
18 electric energy produced by it where such facilities are not  
19 otherwise available upon reasonable terms, for the purpose  
20 of wholesale marketing of power and nothing herein shall  
21 be construed to authorize the commission to engage in the  
22 business of direct sale to consumers.

23 9.4 Development Contracts. The commission may  
24 after public notice and hearing enter into contracts on reason-  
25 able terms, consideration and duration under which public

1 utilities or public agencies may develop hydroelectric power  
2 and hydroelectric energy through the use of dams, related  
3 facilities and appurtenances.

4           **9.5 Rates and Charges.** Rates and charges fixed by  
5 the commission for power which is produced by its facilities  
6 shall be reasonable, nondiscriminatory, and just.

## 7 ARTICLE 10

## 8 REGULATION OF WITHDRAWALS AND DIVERSIONS

9           Section 10.1 Power of Regulation. The commission  
10 may regulate and control withdrawals and diversions from  
11 surface waters and ground waters of the basin, as provided  
12 by this article. The commission may enter into agreements  
13 with the signatory parties relating to the exercise of such  
14 power or regulation or control and may delegate to any of  
15 them such powers of the commission as it may deem neces-  
16 sary or desirable.

10.2 Determination of Protected Areas. The commis-  
sion may from time to time after public hearing upon due  
notice determine and delineate such areas within the basin  
wherein the demands upon supply made by water users  
have developed or threaten to develop to such a degree as to  
create a water shortage or to impair or conflict with the  
requirements or effectuation of the comprehensive plan, and  
any such areas may be designated as "protected areas."  
The commission, whenever it determines that such shortage

1 no longer exists, shall terminate the protected status of such  
2 area and shall give public notice of such termination.

3 10.3 Withdrawal Permits. In any protected areas so  
4 determined and delineated, no person, firm, corporation or  
5 other entity shall divert or withdraw water for domestic,  
6 municipal, agricultural or industrial uses in excess of such  
7 quantities as the commission may prescribe by general  
8 regulation, except (i) pursuant to a permit granted under  
9 this article, or (ii) pursuant to a permit or approval hereto-  
10 fore granted under the laws of any of the signatory states.

11 10.4 Emergency. In the event of a drought or other  
12 condition which may cause an actual and immediate short-  
13 age of available water supply within the basin, or within  
14 any part thereof, the commission may, after public hearing,  
15 determine and delineate the area of such shortage and declare  
16 a water supply emergency therein. For the duration of such  
17 emergency as determined by the commission no person,  
18 firm, corporation or other public or private entity shall divert  
19 or withdraw water for any purpose, in excess of such quan-  
20 tities as the commission may prescribe by general regula-  
21 tion or authorize by special permit granted hereunder.

22 10.5 Standards. Permits shall be granted, modified  
23 or denied as the case may be so as to avoid such depletion  
24 of the natural stream flows and ground waters in the pro-

1 tected area or in an emergency area as will adversely affect  
2 the comprehensive plan or the just and equitable interests  
3 and rights of other lawful users of the same source, giving  
4 due regard to the need to balance and reconcile alternative  
5 and conflicting uses in the event of an actual or threatened  
6 shortage of water of the quality required.

7       10.6 Judicial Review. The determinations and de-  
8 lineations of the commission pursuant to Section 10.2 and  
9 the granting, modification or denial of permits pursuant to  
10 Section 10.3 through 10.5 shall be subject to judicial review  
11 in any court of competent jurisdiction.

12       10.7 Maintenance of Records. Each state shall pro-  
13 vide for the maintenance and preservation of such records  
14 of authorized diversions and withdrawals and the annual  
15 volume thereof as the commission shall prescribe. Such  
16 records and supplementary reports shall be furnished to the  
17 commission at its request.

18       10.8 Existing State Systems. Whenever the commis-  
19 sion finds it necessary or desirable to exercise the powers  
20 conferred by this article any diversion or withdrawal permits  
21 authorized or issued under the laws of any of the signatory  
22 states shall be superseded to the extent of any conflict with  
23 the control and regulation exercised by the commission.



## ARTICLE 11

## INTERGOVERNMENTAL RELATIONS

Section 11.1 Federal Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern federal projects affecting the water resources of the basin, subject in each case to the provisions of Section 1.4 of this compact:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the commission in the comprehensive plan;

(c) Each federal agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section.

11.2 State and Local Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving

1 full effect to the commission as a regional agency of the signa-  
2 tory parties, the following rules shall govern projects of the  
3 signatory states, their political subdivisions and public cor-  
4 porations affecting water resources of the basin:

5 (a) The planning of all projects related to powers  
6 delegated to the commission by this compact shall be un-  
7 dertaken in consultation with the commission;

8 (b) No expenditure or commitment shall be made for  
9 or on account of the construction, acquisition or operation  
10 of any project or facility unless it shall have first been in-  
11 cluded by the commission in the comprehensive plan;

12 (c) Each state and local agency otherwise authorized  
13 by law to plan, design, construct, operate or maintain any  
14 project or facility in or for the basin shall continue to have,  
15 exercise and discharge such authority, except as specifically  
16 provided by this section.

17 11.3 Reserved Taxing Powers of States. Each of the  
18 signatory parties reserves the right to levy, assess and collect  
19 fees, charges and taxes on or measured by the withdrawal  
20 or diversion of waters of the basin for use within the juris-  
21 dictions of the respective signatory parties.

22 11.4 Project Costs and Evaluation Standards. The  
23 commission shall establish uniform standards and procedures  
24 for the evaluation, determination of benefits, and cost alloca-  
25 tions of projects affecting the basin, and for the determination

1 of project priorities, pursuant to the requirements of the  
2 comprehensive plan and its water resources program. The  
3 commission shall develop equitable cost sharing and reim-  
4 bursement formulas for the signatory parties including:

5 (a) Uniform and consistent procedures for the alloca-  
6 tion of project costs among purposes included in multiple-  
7 purpose programs;

8 (b) Contracts and arrangements for sharing financial  
9 responsibility among and with signatory parties, public  
10 bodies, groups and private enterprise, and for the super-  
11 vision of their performance;

12 (c) Establishment and supervision of a system of ac-  
13 counts for reimbursable purposes and directing the payments  
14 and charges to be made from such accounts;

15 (d) Determining the basis and apportioning amounts  
16 (i) of reimbursable revenues to be paid signatory parties  
17 or their political subdivisions, and (ii) of payments in lieu  
18 of taxes to any of them.

19 11.5 Cooperative Services. The commission shall fur-  
20 nish technical services, advice and consultation to authorized  
21 agencies of the signatory parties with respect to the water  
22 resources of the basin, and each of the signatory parties  
23 pledges itself to provide technical and administrative serv-  
24 ices to the commission upon request, within the limits of  
25 available appropriations and to cooperate generally with the

1 commission for the purposes of this compact, and the cost of  
2 such services may be reimbursable whenever the parties  
3 deem appropriate.

## 4 ARTICLE 12

### 5 CAPITAL FINANCING

6 Section 12.1 Borrowing Power. The commission may  
7 borrow money for any of the purposes of this compact, and  
8 may issue its negotiable bonds and other evidences of in-  
9 debtedness in respect thereto. All such bonds and evidences  
10 of indebtedness shall be payable solely out of the properties  
11 and revenues of the commission without recourse to taxation.  
12 The bonds and other obligations of the commission, except as  
13 may be otherwise provided in the indenture under which  
14 they were issued, shall be direct and general obligations of  
15 the commission and the full faith and credit of the commis-  
16 sion are hereby pledged for the prompt payment of the debt  
17 service thereon and for the fulfillment of all other under-  
18 takings of the commission assumed by it to or for the benefit  
19 of the holders thereof.

20 12.2 Funds and Expenses. The purposes of this com-  
21 pact shall include without limitation thereto all costs of any  
22 project or facility or any part thereof, including interest  
23 during a period of construction and a reasonable time there-  
24 after and any incidental expenses (legal, engineering, fiscal,  
25 financial consultant and other expenses) connected with issu-



1 ing and disposing of the bonds; all amounts required for the  
2 creation of an operating fund, construction fund, reserve  
3 fund, sinking fund, or other special fund; all other expenses  
4 connected with the planning, design, acquisition, construc-  
5 tion, completion, improvement or reconstruction of any fa-  
6 cility or any part thereof; and reimbursement of advances by  
7 the commission or by others for such purposes and for work-  
8 ing capital.

9 12.3 Credit Excluded; Officers, State and Municipal.

10 The commission shall have no power to pledge the credit of  
11 any signatory party, or of any county or municipality, or to  
12 impose any obligation for payment of the bonds upon any  
13 signatory party or any county or municipality. Neither the  
14 commissioners nor any person executing the bonds shall be  
15 liable personally on the bonds of the commission or be subject  
16 to any personal liability or accountability by reason of the  
17 issuance thereof.

18 12.4 Funding and Refunding. Whenever the commis-  
19 sion deems it expedient, it may fund and refund its bonds  
20 and other obligations whether or not such bonds and obliga-  
21 tions have matured. It may provide for the issuance, sale or  
22 exchange of refunding bonds for the purpose of redeeming  
23 or retiring any bonds (including the payment of any  
24 premium, duplicate interest or cash adjustment required in  
25 connection therewith) issued by the commission or issued

1 by any other issuing body, the proceeds of the sale of which  
2 have been applied to any facility acquired by the commission  
3 or which are payable out of the revenues of any facility ac-  
4 quired by the commission. Bonds may be issued partly to  
5 refund bonds and other obligations then outstanding, and  
6 partly for any other purpose of the commission. All pro-  
7 visions of this compact applicable to the issuance of bonds  
8 are applicable to refunding bonds and to the issuance, sale  
9 or exchange thereof.

10       12.5 Bonds; Authorization Generally. Bonds and  
11 other indebtedness of the commission shall be authorized by  
12 resolution of the commission. The validity of the authoriza-  
13 tion and issuance of any bonds by the commission shall not  
14 be dependent upon nor affected in any way by: (i) the  
15 disposition of bond proceeds by the commission or by con-  
16 tract, commitment or action taken with respect to such  
17 proceeds; or (ii) the failure to complete any part of the  
18 project for which bonds are authorized to be issued. The  
19 commission may issue bonds in one or more series and may  
20 provide for one or more consolidated bond issues, in such  
21 principal amounts and with such terms and provisions as the  
22 commission may deem necessary. The bonds may be  
23 secured by a pledge of all or any part of the property,  
24 revenues and franchises under its control. Bonds may be  
25 issued by the commission in such amount, with such maturi-

1 ties and in such denominations and form or forms, whether  
2 coupon or registered, as to both principal and interest, as  
3 may be determined by the commission. The commission  
4 may provide for redemption of bonds prior to maturity on  
5 such notice and at such time or times and with such redemp-  
6 tion provisions, including premiums, as the commission may  
7 determine.

#### 8 12.6 Bonds; Resolutions and Indentures Generally.

9 The commission may determine and enter into indentures  
10 providing for the principal amount, date or dates, maturities,  
11 interest rate, denominations, form, registration, transfer,  
12 interchange and other provisions of the bonds and coupons  
13 and the terms and conditions upon which the same shall be  
14 executed, issued, secured, sold, paid, redeemed, funded and  
15 refunded. The resolution of the commission authorizing any  
16 bond or any indenture so authorized under which the bonds  
17 are issued may include all such covenants and other pro-  
18 visions other than any restriction on the regulatory powers  
19 vested in the commission by this compact as the commission  
20 may deem necessary or desirable for the issue, payment,  
21 security, protection or marketing of the bonds, including  
22 without limitation covenants and other provisions as to the  
23 rates or amounts of fees, rents and other charges to be  
24 charged or made for use of the facilities; the use, pledge,

1 custody, securing, application and disposition of such reve-  
2 nues, of the proceeds of the bonds, and of any other moneys  
3 of the commission; the operation, maintenance, repair and  
4 reconstruction of the facilities and the amounts which may  
5 be expended therefor; the sale, lease or other disposition of  
6 the facilities; the insuring of the facilities and of the revenues  
7 derived therefrom; the construction or other acquisition of  
8 other facilities; the issuance of additional bonds or other in-  
9 debtedness; the rights of the bondholders and of any trustee  
10 for the bondholders upon default by the commission or other-  
11 wise; and the modification of the provisions of the indenture  
12 and of the bonds. Reference on the face of the bonds to such  
13 resolution or indenture by its date of adoption or the apparent  
14 date on the face thereof is sufficient to incorporate all of the  
15 provisions thereof and of this compact into the body of the  
16 bonds and their appurtenant coupons. Each taker and sub-  
17 sequent holder of the bonds or coupons, whether the coupons  
18 are attached to or detached from the bonds, has recourse to  
19 all of the provisions of the indenture and of this compact and  
20 is bound thereby.

21       12.7 Maximum Maturity. No bond or its terms shall  
22 mature in more than fifty years from its own date and in  
23 the event any authorized issue is divided into two or more  
24 series or divisions, the maximum maturity date herein au-  
25 thorized shall be calculated from the date on the face of



1 each bond separately, irrespective of the fact that different  
2 dates may be prescribed for the bonds of each separate series  
3 or division of any authorized issue.

4 12.8 Tax Exemption. All bonds issued by the com-  
5 mission under the provisions of this compact and the interest  
6 thereof shall at all times be free and exempt from all taxa-  
7 tion by or under authority of any of the signatory parties,  
8 except for transfer, inheritance and estate taxes.

9 12.9 Interest. Bonds shall bear interest at a rate of  
10 not to exceed six percent per annum, payable annually or  
11 semi-annually.

12 12.10 Place of Payment. The commission may pro-  
13 vide for the payment of the principal and interest of bonds  
14 at any place or places within or without the signatory states,  
15 and in any specified lawful coin or currency of the United  
16 States of America.

17 12.11 Execution. The commission may provide for  
18 the execution and authentication of bonds by the manual,  
19 lithographed or printed facsimile signature of officers of the  
20 commission, and by additional authentication by a trustee  
21 or fiscal agent appointed by the commission. If any of the  
22 officers whose signatures or counter signatures appear upon  
23 the bonds or coupons cease to be officers before the delivery  
24 of the bonds or coupons, their signatures or counter signa-  
25 tures are nevertheless valid and of the same force and effect

1 as if the officers had remained in office until the delivery of  
2 the bonds and coupons.

3 12.12 Holding Own Bonds. The Commission shall  
4 have power out of any funds available therefor to purchase  
5 its bonds and may hold, cancel or resell such bonds.

6 12.13 Sale. The commission may fix terms and condi-  
7 tions for the sale or other disposition of any authorized issue  
8 of bonds. The commission may sell bonds at less than their  
9 par or face value but no issue of bonds may be sold at an  
10 aggregate price below the par or face value thereof if such  
11 sale would result in a net interest cost to the commission  
12 calculated upon the entire issue so sold of more than six per-  
13 cent per annum payable semi-annually, according to standard  
14 tables of bond values. All bonds issued and sold for cash pur-  
15 suant to this act shall be sold on sealed proposals to the high-  
16 est bidder. Prior to such sale, the commission shall advertise  
17 for bids by publication of a notice of sale not less than ten  
18 days prior to the date of sale, at least once in a newspaper of  
19 general circulation printed and published in New York City  
20 carrying municipal bond notices and devoted primarily to  
21 financial news. The commission may reject any and all  
22 bids submitted and may thereafter sell the bonds so ad-  
23 vertised for sale at private sale to any financially responsible  
24 bidder under such terms and conditions as it deems most  
25 advantageous to the public interest, but the bonds shall not

1 be sold at a net interest cost calculated upon the entire issue  
2 so advertised, greater than the lowest bid which was rejected.  
3 In the event the commission desires to issue its bonds in ex-  
4 change for an existing facility or portion thereof, or in ex-  
5 change for bonds secured by the revenues of an existing fa-  
6 cility, it may exchange such bonds for the existing facility  
7 or portion thereof or for the bonds so secured, plus an addi-  
8 tional amount of cash, without advertising such bonds for  
9 sale.

10 12.14 Negotiability. All bonds issued under the pro-  
11 visions of this compact are negotiable instruments, except  
12 when registered in the name of a registered owner.

13 12.15 Legal Investments. Bonds of the commission  
14 shall be legal investments for savings banks, fiduciaries and  
15 public funds in each of the signatory states.

16 12.16 Validation Proceedings. Prior to the issuance  
17 of any bonds, the commission may institute a special pro-  
18 ceeding to determine the legality of proceedings to issue the  
19 bonds and their validity under the laws of any of the signa-  
20 tory parties. Such proceeding shall be instituted and pros-  
21 ecuted in rem and the judgment rendered therein shall be  
22 conclusive against all persons whomsoever and against each  
23 of the signatory parties.

24 12.17 Recording. No indenture need be recorded or  
25 filed in any public office, other than the office of the com-



1 mission. The pledge of revenues provided in any indenture  
2 shall take effect forthwith as provided therein and irrespec-  
3 tive of the date of receipts of such revenues by the commission  
4 or the indenture trustee. Such pledge shall be effective as  
5 provided in the indenture without physical delivery of the  
6 revenues to the commission or to the indenture trustee.

7       12.18 Pledged Revenues. Bond redemption and inter-  
8 est payments shall, to the extent provided in the resolution or  
9 indenture, constitute a first, direct and exclusive charge and  
10 lien on all such rates, rents, tolls, fees and charges and other  
11 revenues and interest thereon received from the use and  
12 operation of the facility, and on any sinking or other funds  
13 created therefrom. All such rates, rents, tolls, fees, charges  
14 and other revenues, together with interest thereon, shall  
15 constitute a trust fund for the security and payment of such  
16 bonds and except as and to the extent provided in the inden-  
17 ture with respect to the payment therefrom of expenses for  
18 other purposes including administration, operation, mainte-  
19 nance, improvements or extensions of the facilities or other  
20 purposes shall not be used or pledged for any other purpose  
21 so long as such bonds, or any of them, are outstanding and  
22 unpaid.

23       12.19 Remedies. The holder of any bond may for  
24 the equal benefit and protection of all holders of bonds  
25 similarly situated: (a) by mandamus or other appropriate



1 proceedings require and compel the performance of any  
2 of the duties imposed upon the commission or assumed by  
3 it, its officers, agents or employees under the provisions  
4 of any indenture, in connection with the acquisition, con-  
5 struction, operation, maintenance, repair, reconstruction or  
6 insurance of the facilities, or in connection with the collec-  
7 tion, deposit, investment, application and disbursement of  
8 the rates, rents, tolls, fees, charges and other revenues  
9 derived from the operation and use of the facilities, or in  
10 connection with the deposit, investment and disbursement  
11 of the proceeds received from the sale of bonds; or (b) by  
12 action or suit in a court of competent jurisdiction of any  
13 signatory party require the commission to account as if it  
14 were the trustee of an express trust, or enjoin any acts or  
15 things which may be unlawful or in violation of the rights  
16 of the holders of the bonds. The enumeration of such rights  
17 and remedies does not, however, exclude the exercise or  
18 prosecution of any other rights or remedies available to  
19 the holders of bonds.

20 12.20 Capital Financing by Signatory Parties; Guar-  
21 antees.

22 (a) The signatory parties will provide such capital  
23 funds required for projects of the commission as may be  
24 authorized by their respective statutes in accordance with a  
25 cost sharing plan prepared pursuant to Article 11 of this

1 compact; but nothing in this section shall be deemed to im-  
2 pose any mandatory obligation on any of the signatory  
3 parties other than such obligations as may be assumed by  
4 a signatory party in connection with a specific project or  
5 facility.

6 (b) Bonds of the commission, notwithstanding any  
7 other provision of this compact, may be executed and de-  
8 livered to any duly authorized agency of any of the signa-  
9 tory parties without public offering and may be sold and re-  
10 sold with or without the guarantee of such signatory party,  
11 subject to and in accordance with the constitutions of the  
12 respective signatory parties.

13 (c) The commission may receive and accept, and the  
14 signatory parties may make, loans, grants, appropriations,  
15 advances and payments of reimbursable or non-reimbursable  
16 funds or property in any form for the capital or operating  
17 purposes of the commission.

## 18 ARTICLE 13

### 19 PLAN, PROGRAM AND BUDGETS

20 Section 13.1 Comprehensive Plan. The commission  
21 shall develop and adopt, and may from time to time review  
22 and revise, a comprehensive plan for the immediate and  
23 long range development and use of the water resources of  
24 the basin. The plan shall include all public and private

1 projects and facilities which are required, in the judgment  
2 of the commission, for the optimum planning, development,  
3 conservation, utilization, management and control of the  
4 water resources of the basin to meet present and future  
5 needs; provided that the plan shall include any projects  
6 required to conform with any present or future decree or  
7 judgment of any court of competent jurisdiction. The com-  
8 mission may adopt a comprehensive plan or any revision  
9 thereof in such part or parts as it may deem appropriate,  
10 provided that before the adoption of the plan or any part or  
11 revision thereof the commission shall consult with water  
12 users and interested public bodies and public utilities and  
13 shall consider and give due regard to the findings and recom-  
14 mendations of the various agencies of the signatory parties  
15 and their political subdivisions. The commission shall con-  
16 duct public hearings with respect to the comprehensive plan  
17 prior to the adoption of the plan or any part or revision  
18 thereof.

19 13.2 Water Resources Program. The commission  
20 shall annually adopt a water resources program, based upon  
21 the comprehensive plan, consisting of the projects and facili-  
22 ties which the commission proposes to be undertaken by the  
23 commission and by other authorized governmental and pri-  
24 vate agencies, organizations and persons during the ensuing



1 six years or such other reasonably foreseeable period as the  
2 commission may determine. The water resources program  
3 shall include a systematic presentation of:

4 1) the quantity and quality of water resources  
5 needs for such period;

6 2) the existing and proposed projects and facilities  
7 required to satisfy such needs, including all public and  
8 private projects to be anticipated;

9 3) a separate statement of the projects proposed to  
10 be undertaken by the commission during such period.

### 11 13.3 Annual Current Expense and Capital Budgets.

12 (a) The commission shall annually adopt a capital  
13 budget including all capital projects it proposes to undertake  
14 or continue during the budget period containing a statement  
15 of the estimated cost of each project and the method of  
16 financing thereof.

17 (b) The commission shall annually adopt a current  
18 expense budget for each fiscal year. Such budget shall in-  
19 clude the commission's estimated expenses for administra-  
20 tion, operation, maintenance and repairs, including a separa-  
21 rate statement thereof for each project, together with its cost  
22 allocation. The total of such expenses shall be balanced by  
23 the commission's estimated revenues from all sources, includ-  
24 ing the cost allocations undertaken by any of the signatory



1 parties in connection with any project. Following the adop-  
2 tion of the annual current expense budget by the commission,  
3 the executive director of the commission shall:

4 1) certify to the respective signatory parties the  
5 amounts due in accordance with existing cost sharing  
6 established for each project; and

7 2) transmit certified copies of such budget to the  
8 principal budget officer of the respective signatory  
9 parties at such time and in such manner as may be re-  
10 quired under their respective budgetary procedures.

11 The amount required to balance the current expense  
12 budget in addition to the aggregate amount of item (1)  
13 above and all other revenues available to the commission  
14 shall be apportioned equitably among the signatory  
15 parties by unanimous vote of the commission, and the  
16 amount of such apportionment to each signatory party  
17 shall be certified together with the budget.

18 (c) The respective signatory parties covenant and  
19 agree to include the amounts so apportioned for the support  
20 of the current expense budget in their respective budgets  
21 next to be adopted, subject to such review and approval as  
22 may be required by their respective budgetary processes.  
23 Such amounts shall be due and payable to the commission  
24 in quarterly installments during its fiscal year, provided that

1 the commission may draw upon its working capital to finance  
2 its current expense budget pending remittances by the signa-  
3 tory parties.

#### 4 ARTICLE 14

##### 5 GENERAL PROVISIONS

6 Section 14.1 Auxiliary Powers of Commission; Func-  
7 tions of Commissioners.

8 (a) The commission, for the purposes of this compact,  
9 may:

10 1) Adopt and use a corporate seal, enter into con-  
11 tracts, sue and be sued in all courts of competent juris-  
12 diction;

13 2) Receive and accept such payments, appropria-  
14 tions, grants, gifts, loans, advances and other funds,  
15 properties and services as may be transferred or made  
16 available to it by any signatory party or by any other  
17 public or private corporation or individual, and enter into  
18 agreements to make reimbursement for all or part  
19 thereof;

20 3) Provide for, acquire and adopt detailed en-  
21 gineering, administrative, financial and operating plans  
22 and specifications to effectuate, maintain or develop any  
23 facility or project;

24 4) Control and regulate the use of facilities owned  
25 or operated by the commission;

1           5) Acquire, own, operate, maintain, control, sell  
2           and convey real and personal property and any interest  
3           therein by contract, purchase, lease, license, mortgage  
4           or otherwise as it may deem necessary for any project  
5           or facility, including any and all appurtenances thereto  
6           necessary, useful or convenient for such ownership,  
7           operation, control, maintenance or conveyance;

8           6) Have and exercise all corporate powers essential  
9           to the declared objects and purposes of the commission.

10          (b) The commissioners, subject to the provisions of this  
11          compact, shall:

12           1) Serve as the governing body of the commission,  
13           and exercise and discharge its powers and duties except  
14           as otherwise provided by or pursuant to this compact;

15           2) Determine the character of and the necessity for  
16           its obligations and expenditures and the manner in which  
17           they shall be incurred, allowed, and paid subject to any  
18           provisions of law specifically applicable to agencies or  
19           instrumentalities created by compact;

20           3) Provide for the internal organization and admin-  
21           istration of the commission;

22           4) Appoint the principal officers of the commission  
23           and delegate to and allocate among them administrative  
24           functions, powers and duties;

25           5) Create and abolish offices, employments and



1 position as it deems necessary for the purposes of the  
2 commission, and subject to the provisions of this article,  
3 fix and provide for the qualification, appointment, re-  
4 moval, term, tenure, compensation, pension and retire-  
5 ment rights of its officers and employees;

6 6) Let and execute contracts to carry out the  
7 powers of the commission.

8 14.2 Regulations; Enforcement. The commission may:

9 (a) Make and enforce reasonable rules and regulations  
10 for the effectuation, application and enforcement of this com-  
11 pact; and it may adopt and enforce practices and schedules  
12 for or in connection with the use, maintenance and adminis-  
13 tration of projects and facilities it may own or operate and  
14 any product or service rendered thereby; provided that any  
15 rule or regulation, other than one which deals solely with  
16 the internal management of the commission, shall be adopted  
17 only after public hearing and shall not be effective unless and  
18 until filed in accordance with the law of the respective  
19 signatory parties applicable to administrative rules and regu-  
20 lations generally; and

21 (b) Designate any officer, agent or employee of the  
22 commission to be an investigator or watchman and such  
23 person shall be vested with the powers of a peace officer of  
24 the state in which he is duly assigned to perform his duties.

25 14.3 Tax Exemption. The commission, its property,



1 functions, and activities shall be exempt from taxation by or  
2 under the authority of any of the signatory parties or any  
3 political subdivision thereof; provided that in lieu of prop-  
4 erty taxes the commission shall, as to specific projects, make  
5 payments to local taxing districts in annual amounts which  
6 shall equal the taxes lawfully assessed upon property for the  
7 tax year next prior to its acquisition by the commission for  
8 a period of ten years. The nature and amount of such pay-  
9 ments shall be reviewed by the commission at the end of ten  
10 years, and from time to time thereafter, upon reasonable  
11 notice and opportunity to be heard to the affected taxing  
12 district, and the payments may be thereupon terminated or  
13 continued in such reasonable amount as may be necessary  
14 or desirable to take into account hardships incurred and bene-  
15 fits received by the taxing jurisdiction which are attributable  
16 to the project.

17 14.4 Meetings; Public Hearing; Records, Minutes.

18 (a) All meetings of the commission shall be open to the  
19 public.

20 (b) The commission shall conduct at least one public  
21 hearing prior to the adoption of the comprehensive plan,  
22 water resources program, annual capital and current ex-  
23 pense budgets, the letting of any contract for the sale or  
24 other disposition by the commission of hydroelectric energy  
25 or water resources to any person, corporation or entity, and

1 in all other cases wherein this compact requires a public  
2 hearing. Such hearing shall be held upon at least ten days  
3 public notice given by posting at the offices of the com-  
4 mission. The commission shall also provide forthwith for  
5 distribution of such notice to the press and by the mailing  
6 of a copy thereof to any person who shall request such  
7 notices.

8 (c) The minutes of the commission shall be a public  
9 record open to inspection at its offices during regular business  
10 hours.

11 14.5 Officers Generally.

12 (a) The officers of the commission shall consist of an  
13 executive director and such additional officers, deputies and  
14 assistants as the commission may determine. The executive  
15 director shall be appointed and may be removed by the  
16 affirmative vote of a majority of the full membership of the  
17 commission. All other officers and employees shall be ap-  
18 pointed by the executive director under such rules of pro-  
19 cedure as the commission may determine.

20 (b) In the appointment and promotion of officers and  
21 employees for the commission, no political, racial, religious  
22 or residence test or qualification shall be permitted or given  
23 consideration, but all such appointments and promotions  
24 shall be solely on the basis of merit and fitness. Any officer

1 or employee of the commission who is found by the commis-  
2 sion to be guilty of a violation of this section shall be removed  
3 from office by the commission.

4 14.6 Oath of Office. An oath of office in such form as  
5 the commission shall prescribe shall be taken, subscribed  
6 and filed with the commission by the executive director and  
7 by each officer appointed by him not later than fifteen days  
8 after the appointment.

9 14.7 Bond. Each officer shall give such bond and in  
10 such form and amount as the commission may require for  
11 which the commission may pay the premium.

12 14.8 Prohibited Activities.

13 (a) No commissioner, officer or employee shall:

14 1) be financially interested, either directly or in-  
15 directly, in any contract, sale, purchase, lease or trans-  
16 fer of real or personal property to which the commission  
17 is a party;

18 2) solicit or accept money or any other thing of  
19 value in addition to the compensation or expenses paid  
20 him by the commission for services performed within the  
21 scope of his official duties;

22 3) offer money or any thing of value for or in con-  
23 sideration of obtaining an appointment, promotion or  
24 privilege in his employment with the commission.



1       (b) Any officer or employee who shall willfully violate  
2 any of the provisions of this section shall forfeit his office or  
3 employment.

4       (c) Any contract or agreement knowingly made in  
5 contravention of this section is void.

6       (d) Officers and employees of the commission shall be  
7 subject in addition to the provisions of this section to such  
8 criminal and civil sanctions for misconduct in office as may  
9 be imposed by federal law and the law of the signatory date  
10 in which such misconduct occurs.

11       14.9 Purchasing. Contracts for the construction, re-  
12 construction or improvement of any facility when the ex-  
13 penditure required exceeds ten thousand dollars and contracts  
14 for the purchase of services, supplies, equipment and ma-  
15 terials when the expenditure required exceeds two thousand  
16 five hundred dollars shall be advertised and let upon sealed  
17 bids to the lowest responsible bidder. Notice requesting  
18 such bids shall be published in a manner reasonably likely to  
19 attract prospective bidders, which publication shall be made  
20 at least ten days before bids are received and in at least two  
21 newspapers of general circulation in the basin. The com-  
22 mission may reject any and all bids and readvertise in its  
23 discretion. If after rejecting bids the commission determines  
24 and resolves that in its opinion the supplies, equipment and  
25 materials may be purchased at a lower price in the open



1 market, the commission may give each responsible bidder  
2 an opportunity to negotiate a price and may proceed to pur-  
3 chase the supplies, equipment and materials in the open mar-  
4 ket at a negotiated price which is lower than the lowest re-  
5 jected bid of a responsible bidder, without further observance  
6 of the provisions requiring bids or notice. The commission  
7 shall adopt rules and regulations to provide for purchasing  
8 from the lowest responsible bidder when sealed bids, notice  
9 and publication are not required by this section. The com-  
10 mission may suspend and waive the provisions of this section  
11 requiring competitive bids whenever:

12 1) the purchase is to be made from or the contract  
13 to be made with the federal or any state government or  
14 any agency or political subdivision thereof or pursuant  
15 to any open end bulk purchase contract of any of them;

16 2) the public exigency requires the immediate de-  
17 livery of the articles or performance of the service;

18 3) only one source of supply is available;

19 4) the equipment to be purchased is of a technical  
20 nature and the procurement thereof without advertising  
21 is necessary in order to assure standardization of equip-  
22 ment and interchangeability of parts in the public in-  
23 terest; or

24 5) services are to be provided of a specialized or  
25 professional nature.

1        14.10 Insurance. The commission may self-insure or  
2 purchase insurance and pay the premiums therefor against  
3 loss or damage to any of its properties; against liability for  
4 injury to persons or property; and against loss of revenue  
5 from any cause whatsoever. Such insurance coverage shall  
6 be in such form and amount as the commission may deter-  
7 mine, subject to the requirements of any agreement arising  
8 out of the issuance of bonds by the commission.

9        14.11 Annual Independent Audit.

10        (a) As soon as practical after the closing of the fiscal  
11 year, an audit shall be made of the financial accounts of the  
12 commission. The audit shall be made by qualified certified  
13 public accountants selected by the commission, who have no  
14 personal interest direct or indirect in the financial affairs of  
15 the commission or any of its officers or employees. The  
16 report of audit shall be prepared in accordance with accepted  
17 accounting practices and shall be filed with the chairman  
18 and such other officers as the commission shall direct. Copies  
19 of the report shall be distributed to each commissioner and  
20 shall be made available for public distribution.

21        (b) Each signatory party by its duly authorized officers  
22 shall be entitled to examine and audit at any time all of the  
23 books, documents, records, files and accounts and all other  
24 papers, things or property of the commission. The repre-  
25 sentatives of the signatory parties shall have access to all

1 books, documents, records, accounts, reports, files and all  
2 other papers, things or property belonging to or in use by  
3 the commission and necessary to facilitate the audit and they  
4 shall be afforded full facilities for verifying transactions with  
5 the balances or securities held by depositaries, fiscal agents  
6 and custodians.

7 (c) The financial transactions of the commission shall  
8 be subject to audit by the general accounting office in accord-  
9 ance with the principles and procedures applicable to com-  
10 mercial corporate transactions and under such rules and  
11 regulations as may be prescribed by the comptroller general  
12 of the United States. The audit shall be conducted at the  
13 place or places where the accounts of the commission are  
14 kept.

15 (d) Any officer or employee who shall refuse to give  
16 all required assistance and information to the accountants  
17 selected by the commission or to the authorized officers of  
18 any signatory party or who shall refuse to submit to them  
19 for examination such books, documents, records, files, ac-  
20 counts, papers, things or property as may be requested shall  
21 forfeit his office.

22 14.12 Reports. The commission shall make and pub-  
23 lish an annual report to the legislative bodies of the signatory  
24 parties and to the public reporting on its programs, opera-  
25 tions and finances. It may also prepare, publish and dis-



1   tribute such other public reports and informational materials  
2   as it may deem necessary or desirable.

3       14.13   Grants, Loans or Payments by States or Po-  
4   litical Subdivisions.

5       (a)   Any or all of the signatory parties or any political  
6   subdivision thereof may:

7           1)   Appropriate to the commission such funds as  
8           may be necessary to pay preliminary expenses such as  
9           the expenses incurred in the making of borings, and  
10          other studies of subsurface conditions, in the preparation  
11          of contracts for the sale of water and in the preparation  
12          of detailed plans and estimates required for the financing  
13          of a project;

14          2)   Advance to the commission, either as grants or  
15          loans, such funds as may be necessary or convenient to  
16          finance the operation and management of or construction  
17          by the commission of any facility or project;

18          3)   Make payments to the commission for benefits  
19          received or to be received from the operation of any of  
20          the projects or facilities of the commission.

21       (b)   Any funds which may be loaned to the commission  
22   either by a signatory party or a political subdivision thereof  
23   shall be repaid by the commission through the issuance of  
24   bonds or out of other income of the commission, such repay-  
25   ment to be made within such period and upon such terms as



1 may be agreed upon between the commission and the signa-  
2 tory party or political subdivision making the loan.

3 14.14 Condemnation Proceedings.

4 (a) The commission shall have the power to acquire by  
5 condemnation the fee or any lesser interest in lands, lands  
6 lying under water, development rights in land, riparian  
7 rights, water rights, waters and other real or personal prop-  
8 erty within the basin for any project or facility authorized  
9 pursuant to this compact. This grant of power of eminent  
10 domain includes but is not limited to the power to condemn  
11 for the purposes of this compact any property already devoted  
12 to a public use, by whomsoever owned or held, other than  
13 property of a signatory party and any property held, con-  
14 structed, operated or maintained in connection with a diver-  
15 sion authorized by a United States Supreme Court decree.  
16 Any condemnation of any property or franchises owned or  
17 used by a municipal or privately owned public utility, unless  
18 the affected public utility facility is to be relocated or re-  
19 placed, shall be subject to the authority of such state board,  
20 commission or other body as may have regulatory jurisdic-  
21 tion over such public utility.

22 (b) Such power of condemnation shall be exercised in  
23 accordance with the provisions of any federal law applicable  
24 to the commission; provided that if there is no such appli-  
25 cable federal law, condemnation proceedings shall be in

1 accordance with the provisions of such general state con-  
2 demnation law as may be in force in the signatory state in  
3 which the property is located.

4 (c) Any award or compensation for the taking of prop-  
5 erty pursuant to this article shall be paid by the commission,  
6 and none of the signatory parties nor any other agency,  
7 instrumentality or political subdivision thereof shall be liable  
8 for such award or compensation.

9 14.15 Conveyance of Lands and Relocation of Public  
10 Facilities.

11 (a) The respective officers, agencies, departments, com-  
12 missions or bodies having jurisdiction and control over real  
13 and personal property owned by the signatory parties are  
14 authorized and empowered to transfer and convey in accord-  
15 ance with the laws of the respective parties to the commis-  
16 sion any such property as may be necessary or convenient  
17 to the effectuation of the authorized purposes of the  
18 commission.

19 (b) Each political subdivision of each of the signatory  
20 parties is authorized and empowered, notwithstanding any  
21 contrary provision of law, to grant and convey to the com-  
22 mission, upon the commission's request, any real property  
23 or any interest therein owned by such political subdivision  
24 including lands lying under water and lands already devoted

1 to public use which may be necessary or convenient to the  
2 effectuation of the authorized purposes of the commission.

3 (c) Any highway, public utility or other public facility  
4 which will be dislocated by reason of a project deemed neces-  
5 sary by the commission to effectuate the authorized purposes  
6 of this compact shall be relocated and the cost thereof shall  
7 be paid in accordance with the law of the state in which the  
8 facility is located; provided that the cost of such relocation  
9 payable by the commission shall not in any event exceed the  
10 expenditure required to serve the public convenience and  
11 necessity.

12 14.16 Rights of Way. Permission is hereby granted  
13 to the commission to locate, construct and maintain any  
14 aqueducts, lines, pipes, conduits and auxiliary facilities au-  
15 thorized to be acquired, constructed, owned, operated or  
16 maintained by the commission in, over, under or across  
17 any streets and highways now or hereafter owned, opened  
18 or dedicated to or for public use, subject to such reasonable  
19 conditions as the highway department of the signatory party  
20 may require.

21 14.17 Penal Sanction. Any person, association or  
22 corporation who violates or attempts or conspires to violate  
23 any provision of this compact or any rule, regulation or  
24 order of the commission duly made, promulgated or issued

1 pursuant to the compact in addition to any other remedy,  
2 penalty or consequence provided by law shall be punishable  
3 as may be provided by statute of any of the signatory parties  
4 within which the offense is committed; provided that in  
5 the absence of such provision any such person, association  
6 or corporation shall be liable to a penalty of not less than  
7 \$50 nor more than \$1000 for each such offense to be fixed  
8 by the court which the commission may recover in its own  
9 name in any court of competent jurisdiction, and in a sum-  
10 mary proceeding where available under the practice and  
11 procedure of such court. For the purposes of this section  
12 in the event of a continuing offense each day of such viola-  
13 tion, attempt or conspiracy shall constitute a separate  
14 offense.

15       14.18 Tort Liability. The commission shall be respon-  
16 sible for claims arising out of the negligent acts or omissions  
17 of its officers, agents and employees only to the extent and  
18 subject to the procedures prescribed by law generally with  
19 respect to officers, agents and employees of the government  
20 of the United States.

21       14.19 Effect on Riparian Rights. Nothing contained  
22 in this compact shall be construed as affecting or intending



1 to affect or in any way to interfere with the law of the re-  
2 spective signatory parties relating to riparian rights.

3 14.20 Amendments and Supplements. Amendments  
4 and supplements to this compact to implement the purposes  
5 thereof may be adopted by legislative action of any of the  
6 signatory parties concurred in by all of the others.

7 CONSTRUCTION AND SEVERABILITY

8 14.21 The provisions of this Act and of agreements  
9 thereunder shall be severable and if any phrase, clause,  
10 sentence or provision of the Delaware River Basin Compact  
11 or such agreement is declared to be unconstitutional or the  
12 applicability thereof to any signatory party, agency or per-  
13 son is held invalid, the constitutionality of the remainder of  
14 such compact or such agreement and the applicability thereof  
15 to any other signatory party, agency, person or circumstance  
16 shall not be affected thereby. It is the legislative intent that  
17 the provisions of such compact be reasonably and liberally  
18 construed.

19 14.22 Effective Date; Execution. This compact shall  
20 become binding and effective thirty days after the enactment  
21 of concurring legislation by the federal government, the  
22 states of Delaware, New Jersey and New York, and the

1 Commonwealth of Pennsylvania. The compact shall be  
2 signed and sealed in six duplicate original copies by the  
3 respective chief executives of the signatory parties. One  
4 such copy shall be filed with the Secretary of State of each  
5 of the signatory parties or in accordance with the laws of  
6 the state in which the filing is made, and one copy shall be  
7 filed and retained in the archives of the commission upon its  
8 organization. The signatures shall be affixed and attested  
9 under the following form:

10       IN WITNESS WHEREOF, and in evidence of the  
11 adoption and enactment into law of this compact by the Con-  
12 gress and legislatures, respectively, of the signatory parties,  
13 the President of the United States and the respective Gov-  
14 ernors do hereby, in accordance with authority conferred by  
15 law, sign this compact in six duplicate original copies, as  
16 attested by the respective secretaries of state, and have  
17 caused the seals of the United States and of the respective  
18 states to be hereunto affixed this       day of       ,  
19 19   .

20                                   PART II

21                                   ARTICLE 15

22                                   REPEALER

23       15.1 All Acts and parts of Acts inconsistent with any  
24 provision of this Act are hereby amended for the purposes  
25 of this Act to the extent necessary to carry out the provisions  
26 of this Act.

## EFFECTUATION BY THE PRESIDENT

15.2 The President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the Delaware River Basin Compact and the initial organization and operation of the commission thereunder.

## EFFECTIVE DATE

15.3 This Act shall take effect immediately.

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# A BILL

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To create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

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By Mr. CLARK, Mr. CASE of New Jersey, Mr. BOGGS, Mr. JAVITS, Mr. KEATING, Mr. SCOTT, Mr. WILLIAMS of Delaware, and Mr. WILLIAMS of New Jersey

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FEBRUARY 9, 1961

Read twice and referred to the Committee on Public Works







87<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. J. RES. 225

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 1961

Mr. WALTER introduced the following joint resolution; which was referred to the Committee on the Judiciary

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## JOINT RESOLUTION

To grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes.

1       *Resolved by the Senate and House of Representatives*  
2       *of the United States of America in Congress assembled,*  
3       That the consent of Congress is hereby given to the States  
4       of Delaware, New Jersey, and New York, and the Com-  
5       monwealth of Pennsylvania, for the compact known as the  
6       Delaware River Basin compact, and the United States of  
7       America hereby enters into such compact, in the form as  
8       follows:

## PART I

## COMPACT

Whereas the signatory parties recognize the water and related resources of the Delaware basin as regional assets vested with local, state and national interests, for which they have a joint responsibility; and

Whereas the conservation, utilization, development, management and control of the water and related resources of the Delaware River Basin under a comprehensive multipurpose plan will bring the greatest benefits and produce the most efficient service in the public welfare; and

Whereas such a comprehensive plan administered by a basin-wide agency will provide effective flood damage reduction; conservation and development of ground and surface water supply for municipal, industrial and agricultural uses; development of recreational facilities in relation to reservoirs, lakes and streams; propagation of fish and game; promotion of related forestry, soil conservation and watershed projects; protection and aid to fisheries dependent upon water resources; development of hydroelectric power potentialities; improved navigation; control of the movement of salt water; abatement and control of stream pollution; and regulation of stream flows toward the attainment of these goals; and

Whereas decisions of the United States Supreme Court re-



1        relating to the waters of the basin have confirmed the  
2        interstate regional character of the water resources of the  
3        Delaware River Basin, and the United States Corps of  
4        Engineers has in a prior report on the Delaware River  
5        Basin (House Document 179, 73d Cong., 2nd Sess.)  
6        officially recognized the need for an interstate agency  
7        and the economies that can result from unified develop-  
8        ment and control of the water resources of the basin;  
9        and

10    Whereas the water resources of the basin are presently sub-  
11        ject to the duplicating, overlapping and uncoordinated  
12        administration of some 43 state agencies, 14 interstate  
13        agencies and 19 federal agencies which exercise a multi-  
14        plicity of powers and duties resulting in a splintering of  
15        authority and responsibilities; and

16    Whereas the joint advisory body known as the Interstate  
17        Commission on the Delaware River Basin (INCodel),  
18        created by the respective commissions or committee on  
19        Interstate Cooperation of the States of Delaware, New  
20        Jersey, New York and Pennsylvania, has on the basis  
21        of its extensive investigations, surveys and studies con-  
22        cluded that regional development of the Delaware River  
23        Basin is feasible, advisable and urgently needed; and has  
24        recommended that an interstate compact with federal  
25        participation be consummated to this end; and

1 Whereas the Congress of the United States and the executive  
2 branch of the government have recognized the national  
3 interest in the Delaware River Basin by authorizing  
4 and directing the Corps of Engineers, U.S. Department  
5 of the Army, to make a comprehensive survey and re-  
6 port on the water and related resources of the Delaware  
7 River Basin, enlisting the technical aid and planning  
8 participation of many federal, state and municipal agen-  
9 cies dealing with the waters of the basin, and in particu-  
10 lar the federal departments of Agriculture, Commerce,  
11 Health, Education and Welfare, Interior, and Federal  
12 Power Commission; and

13 Whereas some 22,000,000 people of the United States at  
14 present live and work in the region of the Delaware  
15 River Basin and its environs, and the government, em-  
16 ployment, industry and economic development of the  
17 entire region and the health, safety and general welfare  
18 of its population are and will continue to be vitally  
19 affected by the use, conservation, and management and  
20 control of the water and related resources of the Dela-  
21 ware River Basin; and

22 Whereas demands upon the waters and related resources of  
23 the basin are expected to mount rapidly because of the

1 anticipated increase in the population of the region pro-  
2 jected to reach 30,000,000 by 1980 and 40,000,000 by  
3 2010, and because of the anticipated increase in indus-  
4 trial growth projected to double by 1980; and

5 Whereas water resources planning and development is tech-  
6 nical, complex and expensive, and has often required  
7 fifteen to twenty years from the conception to the com-  
8 pletion of a large dam and reservoir; and

9 Whereas the public interest requires that facilities must be  
10 ready and operative when needed, to avoid the catas-  
11 trophe of unexpected floods or prolonged drought, and  
12 for other purposes; and

13 Whereas the Delaware River Basin Advisory Committee, a  
14 temporary body constituted by the governors of the  
15 four basin states and the mayors of the cities of New  
16 York and Philadelphia, has prepared a draft of an inter-  
17 state-federal compact for the creation of a basin agency,  
18 and the signatory parties desire to effectuate the pur-  
19 poses thereof; Now therefore

20 The states of Delaware, New Jersey and New York and  
21 the Commonwealth of Pennsylvania, and the United States  
22 of America hereby solemnly covenant and agree with each  
23 other, upon the enactment of concurrent legislation by the

1 Congress of the United States and by the respective state  
2 legislatures, having the same effect as this Part, as follows:

3 ARTICLE 1

4 SHORT TITLE, DEFINITIONS, PURPOSE AND LIMITATIONS

5 Section 1.1 Short Title. This act shall be known and  
6 may be cited as the Delaware River Basin Compact.

7 1.2 Definitions. For the purposes of this compact,  
8 and of any supplemental or concurring legislation enacted  
9 pursuant thereto, except as may be otherwise required by  
10 the context:

11 (a) "Basin" shall mean the area of drainage into the  
12 Delaware River and its tributaries, including Delaware Bay;

13 (b) "Commission" shall mean the Delaware River  
14 Basin Commission created and constituted by this compact;

15 (c) "Compact" shall mean Part I of this act;

16 (d) "Cost" shall mean direct and indirect expenditures,  
17 commitment, and net induced adverse effects, whether or  
18 not compensated for, used or incurred in connection with  
19 the establishment, acquisition, construction, maintenance and  
20 operation of a project;

21 (e) "Facility" shall mean any real or personal prop-  
22 erty, within or without the basin, and improvements thereof  
23 or thereon, and any and all rights of way, water, water  
24 rights, plants, structures, machinery and equipment, ac-  
25 quired, constructed, operated or maintained for the bene-



1 ficial use of water resources or related land uses including,  
2 without limiting the generality of the foregoing, any and all  
3 things and appurtenances necessary, useful or convenient for  
4 the control, collection, storage, withdrawal, diversion, re-  
5 lease, treatment, transmission, sale or exchange of water;  
6 or for navigation thereon, or the development and use of  
7 hydroelectric energy and power, and public recreational  
8 facilities; or the propagation of fish and wildlife; or to con-  
9 serve and protect the water resources of the basin or any  
10 existing or future water supply source, or to facilitate any  
11 other uses of any of them;

12 (f) "Federal government" shall mean the government  
13 of the United States of America, and any appropriate branch,  
14 department, bureau or division thereof, as the case may be;

15 (g) "Project" shall mean any work, service or activity  
16 which is separately planned, financed, or identified by the  
17 commission, or any separate facility undertaken or to be  
18 undertaken within a specified area, for the conservation, util-  
19 ization, control, development or management of water re-  
20 sources which can be established and utilized independently  
21 or as an addition to an existing facility, and can be con-  
22 sidered as a separate entity for purposes of evaluation;

23 (h) "Signatory party" shall mean a state or common-  
24 wealth party to this compact, and the federal government;

25 (i) "Water resources" shall include water and related

1 natural resources in, on, under, or above the ground, includ-  
2 ing related uses of land, which are subject to beneficial use,  
3 ownership or control.

4 1.3 Purpose and Findings. The legislative bodies of  
5 the respective signatory parties hereby find and declare:

6 (a) The water resources of the basin are affected with a  
7 local, state, regional and national interest and their planning,  
8 conservation, utilization, development, management and con-  
9 trol, under appropriate arrangements for intergovernmental  
10 cooperation, are public purposes of the respective signatory  
11 parties.

12 (b) The water resources of the basin are subject to the  
13 sovereign right and responsibility of the signatory parties,  
14 and it is the purpose of this compact to provide for a joint  
15 exercise of such powers of sovereignty in the common in-  
16 terests of the people of the region.

17 (c) The water resources of the basin are functionally  
18 inter-related, and the uses of these resources are interdepend-  
19 ent. A single administrative agency is therefore essential  
20 for effective and economical direction, supervision and coor-  
21 dination of efforts and programs of federal, state and local  
22 governments and of private enterprise.

23 (d) The water resources of the Delaware River Basin,  
24 if properly planned and utilized, are ample to meet all  
25 presently projected demands, including existing and added

1 diversions in future years and ever increasing economies  
2 and efficiencies in the use and reuse of water resources can  
3 be brought about by comprehensive planning, programming  
4 and management.

5 (e) In general, the purposes of this compact are to  
6 promote interstate comity; to remove causes of present and  
7 future controversy; to make secure and protect present de-  
8 velopments within the states; to encourage and provide for  
9 the planning, conservation, utilization, development, manage-  
10 ment and control of the water resources of the basin; to  
11 provide for cooperative planning and action by the signatory  
12 parties with respect to such water resources; and to apply  
13 the principle of equal and uniform treatment to all water  
14 users who are similarly situated and to all users of related  
15 facilities, without regard to established political boundaries.

16 1.4 Powers of Congress; Withdrawal. Nothing in  
17 this compact shall be construed to relinquish the functions,  
18 powers or duties of the Congress of the United States with  
19 respect to the control of any navigable waters within the  
20 basin, nor shall any provision hereof be construed in deroga-  
21 tion of any of the constitutional powers of the Congress to  
22 regulate commerce among the states and with foreign na-  
23 tions. The power and right of the Congress to withdraw  
24 the federal government as a party to this compact or to



1 revise or modify the terms, conditions and provisions under  
2 which it may remain a party by amendment, repeal or  
3 modification of any federal statute applicable thereto is  
4 recognized by the signatory parties.

5       1.5 Existing Agencies; Construction. It is the purpose  
6 of the signatory parties to preserve and utilize the functions,  
7 powers and duties of existing offices and agencies of gov-  
8 ernment to the extent not inconsistent with the compact,  
9 and the commission is authorized and directed to utilize  
10 and employ such offices and agencies for the purpose of this  
11 compact to the fullest extent it finds feasible and advan-  
12 tageous.

13       1.6 Duration of Compact.

14       (a) The duration of this compact shall be for an initial  
15 period of 100 years from its effective date, and it shall be  
16 continued for additional periods of 100 years if not later  
17 than 20 years nor sooner than 25 years prior to the termina-  
18 tion of the initial period or any succeeding period none of  
19 the signatory states, by authority of an act of its legislature,  
20 notifies the commission of intention to terminate the com-  
21 pact at the end of the then current 100 year period.

22       (b) In the event that this compact should be terminated  
23 by operation of paragraph (a) above, the commission shall  
24 be dissolved, its assets and liabilities transferred, and its cor-



1 porate affairs wound up, in such manner as may be provided  
2 by act of the Congress.

## 3 ARTICLE 2

### 4 ORGANIZATION AND AREA

5 Section 2.1 Commission Created. The Delaware River  
6 Basin Commission is hereby created as a body politic  
7 and corporate, with succession for the duration of this com-  
8 pact, as an agency and instrumentality of the governments of  
9 the respective signatory parties.

10 2.2 Commission Membership. The commission shall  
11 consist of the Governors of the signatory states, ex officio,  
12 and one commissioner to be appointed by the President of the  
13 United States to serve during the term of office of the  
14 President.

15 2.3 Alternates. Each member of the commission  
16 shall appoint an alternate to act in his place and stead, with  
17 authority to attend all meetings of the commission, and with  
18 power to vote in the absence of the member. Unless other-  
19 wise provided by law of the signatory party for which he is  
20 appointed, each alternate shall serve during the term of the  
21 member appointing him, subject to removal at the pleasure  
22 of the member. In the event of a vacancy in the office of  
23 alternate, it shall be filled in the same manner as an original  
24 appointment for the unexpired term only.

1       2.4 Compensation. Members of the commission and  
2 alternates shall serve without compensation but may be re-  
3 imbursed for necessary expenses incurred in and incident to  
4 the performance of their duties.

5       2.5 Voting Power. Each member shall be entitled to  
6 one vote on all matters which may come before the commis-  
7 sion. No action of the commission shall be taken at any  
8 meeting unless a majority of the membership shall vote in  
9 favor thereof.

10       2.6 Organization and Procedure. The commission  
11 shall provide for its own organization and procedure, and  
12 shall adopt rules and regulations governing its meetings and  
13 transactions. It shall organize annually by the election of a  
14 chairman and vice-chairman from among its members. It  
15 shall provide by its rules for the appointment by each mem-  
16 ber in his discretion of an advisor to serve without compensa-  
17 tion, who may attend all meetings of the commission and its  
18 committees.

19       2.7 Jurisdiction of the Commission. The commission  
20 shall have, exercise and discharge its functions, powers and  
21 duties within the limits of the basin, except that it may in its  
22 discretion act outside the basin whenever such action may be  
23 necessary or convenient to effectuate its powers or duties  
24 within the basin, or to sell or dispose of water, hydroelectric  
25 power or other water resources within or without the basin.

1 The commission shall exercise such power outside the basin  
2 only upon the consent of the state in which it proposes to  
3 act.

#### 4 ARTICLE 3

##### 5 POWERS AND DUTIES OF THE COMMISSION

6 Section 3.1 Purpose and Policy. The commission shall  
7 develop and effectuate plans, policies and projects relating to  
8 the water resources of the basin. It shall adopt and promote  
9 uniform and coordinated policies for water conservation, con-  
10 trol, use and management in the basin. It shall encourage  
11 the planning, development and financing of water resources  
12 projects according to such plans and policies.

13 3.2 Comprehensive Plan, Program and Budgets. The  
14 commission shall, in accordance with Article 13 of this com-  
15 pact, formulate and adopt:

16 (a) A comprehensive plan, after consultation with water  
17 users and interested public bodies, for the immediate and  
18 long range development and uses of the water resources of  
19 the basin;

20 (b) A water resources program, based upon the com-  
21 prehensive plan, which shall include a systematic presenta-  
22 tion of the quantity and quality of water resources needs of  
23 the area to be served for such reasonably foreseeable period  
24 as the commission may determine, balanced by existing and  
25 proposed projects required to satisfy such needs, including



1 all public and private projects affecting the basin, together  
2 with a separate statement of the projects proposed to be  
3 undertaken by the commission during such period; and

4 (c) An annual current expense budget, and an annual  
5 capital budget consistent with the water resources program  
6 covering the commission's projects and facilities for the bud-  
7 get period.

8 3.3 Allocations, Diversions and Releases. The com-  
9 mission shall have the power from time to time as need  
10 appears, in accordance with the doctrine of equitable appor-  
11 tionment, to allocate the waters of the basin to and among  
12 the states signatory to this compact and to and among their  
13 respective political subdivisions, and to impose conditions,  
14 obligations and release requirements related thereto, subject  
15 to the following limitations:

16 (a) The commission, without the unanimous consent  
17 of the parties to the United States Supreme Court decree in  
18 New Jersey v. New York, 347 U.S. 995 (1954), shall not  
19 impair, diminish or otherwise adversely affect the diversions,  
20 compensating releases, rights, conditions, obligations, and  
21 provisions for the administration thereof as provided in said  
22 decree; provided, however, that after consultation with the  
23 river master under said decree the commission may find and  
24 declare a state of emergency resulting from a drought or  
25 catastrophe and it may thereupon by unanimous consent of



1 its members authorize and direct an increase or decrease in  
2 any allocation or diversion permitted or releases required by  
3 the decree, in such manner and for such limited time as may  
4 be necessary to meet such an emergency condition.

5 (b) No allocation of waters hereafter made pursuant to  
6 this section shall constitute a prior appropriation of the waters  
7 of the basin or confer any superiority of right in respect to the  
8 use of those waters, nor shall any such action be deemed to  
9 constitute an apportionment of the waters of the basin among  
10 the parties hereto; provided that this paragraph shall not be  
11 deemed to limit or restrict the power of the commission to  
12 enter into covenants with respect to water supply, with a dura-  
13 tion not exceeding the life of this compact, as it may deem  
14 necessary for the benefit or development of the water resources  
15 of the basin.

16 (c) Any proper party deeming itself aggrieved by action  
17 of the commission with respect to an out-of-basin diversion or  
18 compensating releases in connection therewith, notwithstand-  
19 ing the powers delegated to the commission by this compact  
20 may invoke the original jurisdiction of the United States Su-  
21 preme Court within one year after such action for an adjudica-  
22 tion and determination thereof de novo. Any other action of  
23 the commission pursuant to this section shall be subject to ju-  
24 dicial review in any court of competent jurisdiction.

25 3.4 Supreme Court Decree; Waivers. Each of the sig-

1 natory states and their respective political subdivisions, in con-  
2 sideration of like action by the others, and in recognition of  
3 reciprocal benefits, hereby waives and relinquishes any right,  
4 privilege or power it may have to apply for any modification  
5 of the terms of the decree of the United States Supreme  
6 Court in New Jersey v. New York, 347 U.S. 995 (1954)  
7 which would increase or decrease the diversions authorized  
8 or increase or decrease the releases required thereunder, ex-  
9 cept that a proceeding to modify such decree to increase  
10 diversions or compensating releases in connection with such  
11 increased diversions may be prosecuted by a proper party  
12 to effectuate rights, powers, duties and obligations under  
13 Section 3.3 of this compact, and except as may be required  
14 to effectuate the provisions of paragraphs III B 3 and V B  
15 of said decree.

16 3.5 Supreme Court Decree; Specific Limitations on  
17 Commission. Except as specifically provided in Sections  
18 3.3 and 3.4 of this article, nothing in this compact shall be  
19 construed in any way to impair, diminish or otherwise ad-  
20 versely affect the rights, powers, privileges, conditions and  
21 obligations contained in the decree of the United States  
22 Supreme Court in New Jersey v. New York, 347 U.S.  
23 995 (1954). To this end, and without limitation thereto,  
24 the commission shall not:

25 (a) Acquire, construct or operate any project or fa-

1 cility or make any order or take any action which would  
2 impede or interfere with the rights, powers, privileges, con-  
3 ditions or obligations contained in said decree;

4 (b) Impose or collect any fee, charge or assessment  
5 with respect to diversions of waters of the basin permitted  
6 by said decree;

7 (c) Exercise any jurisdiction, except upon consent of  
8 all the parties to said decree, over the planning, design,  
9 construction, operation or control of any projects, struc-  
10 tures or facilities constructed or used in connection with  
11 withdrawals, diversions and releases of waters of the basin  
12 authorized by said decree or of the withdrawal, diversions  
13 or releases to be made thereunder; or

14 (d) Serve as river master under said decree, except  
15 upon consent of all the parties thereto.

16 3.6 General Powers. The commission may:

17 (a) Plan, design, acquire, construct, reconstruct, com-  
18 plete, own, improve, extend, develop, operate and maintain  
19 any and all projects, facilities, properties, activities and serv-  
20 ices, determined by the commission to be necessary, con-  
21 venient or useful for the purposes of this compact;

22 (b) Establish standards of planning, design and opera-  
23 tion of all projects and facilities in the basin which affect  
24 its water resources, including without limitation thereto



1 water and waste treatment plants, stream and lake recrea-  
2 tional facilities, trunk mains for water distribution, local flood  
3 protection works, small watershed management programs,  
4 and ground water recharging operations;

5 (c) Conduct and sponsor research on water resources,  
6 their planning, use, conservation, management, development,  
7 control and protection, and the capacity, adaptability and  
8 best utility of each facility thereof, and collect, compile, cor-  
9 relate, analyze, report and interpret data on water resources  
10 and uses in the basin, including without limitation thereto  
11 the relation of water to other resources, industrial water  
12 technology, ground water movement, relation between water  
13 price and water demand, and general hydrological condi-  
14 tions;

15 (d) Compile and coordinate systematic stream stage  
16 and ground water level forecasting data, and publicize such  
17 information when and as needed for water uses, flood warn-  
18 ing, quality maintenance or other purposes;

19 (e) Conduct such special ground water investigations,  
20 tests, and operations and compile such data relating thereto  
21 as may be required to formulate and administer the compre-  
22 hensive plan;

23 (f) Prepare, publish and disseminate information and  
24 reports with respect to the water problems of the basin and  
25 for the presentation of the needs, resources and policies of



1 the basin to executive and legislative branches of the signa-  
2 tory parties;

3 (g) Negotiate for such loans, grants, services or other  
4 aids as may be lawfully available from public or private  
5 sources to finance or assist in effectuating any of the purposes  
6 of this compact; and to receive and accept such aid upon  
7 such terms and conditions, and subject to such provisions  
8 for repayment as may be required by federal or state law or  
9 as the commission may deem necessary or desirable;

10 (h) Exercise such other and different powers as may be  
11 delegated to it by this compact or otherwise pursuant to law,  
12 and have and exercise all powers necessary or convenient to  
13 carry out its express powers or which may be reasonably  
14 implied therefrom.

15 3.7 Rates and Charges. The commission may from  
16 time to time after public notice and hearing fix, alter and  
17 revise rates, rentals, charges and tolls and classifications  
18 thereof, for the use of facilities which it may own or operate  
19 and for products and services rendered thereby, without  
20 regulation or control by any department, office or agency  
21 of any signatory party.

22 3.8 Referral and Review. No project having a sub-  
23 stantial effect on the water resources of the basin shall here-  
24 after be undertaken by any person, corporation or govern-  
25 mental authority unless it shall have been first submitted to

1 and approved by the commission, subject to the provisions  
2 of Sections 3.3 and 3.5. The commission shall approve a  
3 project whenever it finds and determines that such project  
4 would not substantially impair or conflict with the compre-  
5 hensive plan and may modify and approve as modified, or  
6 may disapprove any such project whenever it finds and  
7 determines that the project would substantially impair or  
8 conflict with such plan. The commission shall provide by  
9 regulation for the procedure of submission, review and con-  
10 sideration of projects, and for its determinations pursuant  
11 to this section. Any determination of the commission here-  
12 under shall be subject to judicial review in any court of  
13 competent jurisdiction.

14       3.9 Coordination and Cooperation. The commission  
15 shall promote and aid the coordination of the activities and  
16 programs of federal, state, municipal and private agencies  
17 concerned with water resources administration in the basin.  
18 To this end, but without limitation thereto, the commission  
19 may:

20       (a) Advise, consult, contract, financially assist, or other-  
21 wise cooperate with any and all such agencies;

22       (b) Employ any other agency or instrumentality of any  
23 of the signatory parties or of any political subdivision thereof,  
24 in the design, construction, operation and maintenance of

1 structures, and the installation and management of river con-  
2 trol systems, or for any other purpose;

3 (c) Develop and adopt plans and specifications for par-  
4 ticular water resources projects and facilities which so far as  
5 consistent with the comprehensive plan incorporate any sep-  
6 arate plans of other public and private organizations operat-  
7 ing in the basin, and permit the decentralized administration  
8 thereof;

9 (d) Qualify as a sponsoring agency under any federal  
10 legislation heretofore or hereafter enacted to provide finan-  
11 cial or other assistance for the planning, conservation, utili-  
12 zation, development, management or control of water  
13 resources.

14 3.10 Advisory Committees. The commission may con-  
15 stitute and empower advisory committees, which may be  
16 comprised of representatives of the public and of federal,  
17 state, county and municipal governments, water resources  
18 agencies, water-using industries, water-interest groups, labor  
19 and agriculture.

## 20 ARTICLE 4

### 21 WATER SUPPLY

22 Section 4.1 Generally. The commission shall have  
23 power to develop, implement and effectuate plans and proj-  
24 ects for the use of the waters of the basin for domestic,



1 municipal, agricultural and industrial water supply. To this  
2 end, without limitation thereto, it may provide for, construct,  
3 acquire, operate and maintain dams, reservoirs and other  
4 facilities for utilization of surface and ground water resources,  
5 and all related structures, appurtenances and equipment on  
6 the river and its tributaries and at such off-river sites as it  
7 may find appropriate, and may regulate and control the use  
8 thereof.

9 4.2 Storage and Release of Waters.

10 (a) The commission shall have power to acquire, oper-  
11 ate and control projects and facilities for the storage and  
12 release of waters, for the regulation of flows and supplies of  
13 surface and ground waters of the basin, for the protection  
14 of public health, stream quality control, economic develop-  
15 ment, improvement of fisheries, recreation, dilution and  
16 abatement of pollution, the prevention of undue salinity and  
17 other purposes.

18 (b) No signatory party shall permit any augmentation  
19 of flow to be diminished by the diversion of any water of  
20 the basin during any period in which waters are being re-  
21 leased from storage under the direction of the commission  
22 for the purpose of augmenting such flow, except in cases



1 where such diversion is duly authorized by this compact,  
2 or by the commission pursuant thereto, or by the judgment,  
3 order or decree of a court of competent jurisdiction.

4 4.3 Assessable Improvements. The commission may  
5 undertake to provide stream regulation in the main stream  
6 or any tributary in the basin and may assess on an annual  
7 basis or otherwise the cost thereof upon water users or any  
8 classification of them specially benefited thereby to a meas-  
9 urable extent, provided that no such assessment shall exceed  
10 the actual benefit to any water user. Any such assessment  
11 shall follow the procedure prescribed by law for local im-  
12 provement assessments and shall be subject to judicial review  
13 in any court of competent jurisdiction.

14 4.4 Coordination. Prior to entering upon the execu-  
15 tion of any project authorized by this article, the commission  
16 shall review and consider all existing rights, plans and pro-  
17 grams of the signatory parties, their political subdivisions,  
18 private parties, and water users which are pertinent to such  
19 project, and shall hold a public hearing on each proposed  
20 project.

21 4.5 Additional Powers. In connection with any proj-  
22 ect authorized by this article, the commission shall have

1 power to provide storage, treatment, pumping and transmis-  
2 sion facilities, but nothing herein shall be construed to au-  
3 thorize the commission to engage in the business of distribut-  
4 ing water.

## 5 ARTICLE 5

### 6 POLLUTION CONTROL

7 Section 5.1 General Powers. The commission may  
8 undertake investigations and surveys, and acquire, construct,  
9 operate and maintain projects and facilities to control poten-  
10 tial pollution and abate or dilute existing pollution of the  
11 water resources of the basin. It may invoke as complainant  
12 the power and jurisdiction of water pollution abatement agen-  
13 cies of the signatory parties.

14 5.2 Policy and Standards. The commission may as-  
15 sume jurisdiction to control future pollution and abate ex-  
16 isting pollution in the waters of the basin, whenever it de-  
17 termines after investigation and public hearing upon due  
18 notice that the effectuation of the comprehensive plan so  
19 requires. The standard of such control shall be that pollu-  
20 tion by sewage or industrial or other waste originating within  
21 a signatory state shall not injuriously affect waters of the  
22 basin as contemplated by the comprehensive plan. The  
23 commission, after such public hearing may classify the waters  
24 of the basin and establish standards of treatment of sewage,  
25 industrial or other waste, according to such classes including

1 allowance for the variable factors of surface and ground  
2 waters, such as size of the stream, flow, movement, location,  
3 character, self-purification, and usage of the waters affected.  
4 After such investigation, notice and hearing the commission  
5 may adopt and from time to time amend and repeal rules,  
6 regulations and standards to control such future pollution  
7 and abate existing pollution, and to require such treatment  
8 of sewage, industrial or other waste within a time reason-  
9 able for the construction of the necessary works, as may be  
10 required to protect the public health or to preserve the  
11 waters of the basin for uses in accordance with the compre-  
12 hensive plan.

13       5.3 Cooperative Legislation and Administration. Each  
14 of the signatory parties covenants and agrees to prohibit  
15 and control pollution of the waters of the basin according  
16 to the requirements of this compact and to cooperate faith-  
17 fully in the control of future pollution in and abatement of  
18 existing pollution from the rivers, streams, and waters in the  
19 basin which flow through, under, into or border upon any of  
20 such signatory states, and in order to effect such object,  
21 agrees to enact any necessary legislation to enable each such  
22 party to place and maintain the waters of said basin in a  
23 satisfactory condition, available for safe and satisfactory use  
24 as public and industrial water supplies after reasonable



1 treatment, suitable for recreational usage, capable of main-  
2 taining fish and other aquatic life, free from unsightly or  
3 malodorous nuisances due to floating solids or sludge deposits  
4 and adaptable to such other uses as may be provided by the  
5 comprehensive plan.

6       5.4 Enforcement. The commission may, after investi-  
7 gation and hearing, issue an order or orders upon any person  
8 or public or private corporation, or other entity, to cease  
9 the discharge of sewage, industrial or other waste into waters  
10 of the basin which it determines to be in violation of such  
11 rules and regulations as it shall have adopted for the pre-  
12 vention and abatement of pollution. Any such order or  
13 orders may prescribe the date, including a reasonable time  
14 for the construction of any necessary works, on or before  
15 which such discharge shall be wholly or partially discon-  
16 tinued, modified or treated, or otherwise conformed to the  
17 requirements of such rules and regulations. Such order shall  
18 be reviewable in any court of competent jurisdiction. The  
19 courts of the signatory parties shall have jurisdiction to en-  
20 force against any person, public or private corporation, or  
21 other entity, any and all provisions of this Article or of any  
22 such order. The commission may bring an action in its own  
23 name in any such court of competent jurisdiction to compel  
24 compliance with any provision of this Article, or any rule



1 or regulation issued pursuant thereto or of any such order,  
2 according to the practice and procedure of the court.

3 5.5 Further Jurisdiction. Nothing in this compact shall  
4 be construed to repeal, modify or qualify the authority of  
5 any signatory party to enact any legislation or enforce any  
6 additional conditions and restrictions to lessen or prevent  
7 the pollution of waters within its jurisdiction.

## 8 ARTICLE 6

### 9 FLOOD PROTECTION

10 Section 6.1 General Powers. The commission may  
11 plan, design, construct and operate and maintain projects  
12 and facilities, as it may deem necessary or desirable for  
13 flood damage reduction. It shall have power to operate such  
14 facilities and to store and release waters on the Delaware  
15 River and its tributaries and elsewhere within the basin, in  
16 such manner, at such times, and under such regulations as  
17 the commission may deem appropriate to meet flood condi-  
18 tions as they may arise.

#### 19 6.2 Flood Plain Zoning.

20 (a) The commission shall have power to adopt, amend  
21 and repeal recommended standards, in the manner provided  
22 by this section, relating to the nature and extent of the uses  
23 of land in areas subject to flooding by waters of the Delaware  
24 River and its tributaries. Such standards shall not be

1 deemed to impair or restrict the power of the signatory parties  
2 ties or their political subdivisions to adopt zoning and other  
3 land use regulations not inconsistent therewith.

4 (b) The commission may study and determine the nature  
5 and extent of the flood plains of the Delaware River and  
6 its tributaries. Upon the basis of such studies, it may establish  
7 encroachment lines and delineate the areas subject to  
8 flood, including a classification of lands with reference to  
9 relative risk of flood and the establishment of standards for  
10 flood plain use which will safeguard the public health, safety  
11 and property. Prior to the adoption of any standards delineating  
12 such area or defining such use, the commission shall hold public  
13 hearings, in the manner provided by Article 14, with respect to the  
14 substance of such standards. At or before such public hearings  
15 the proposed standards shall be available, and all interested persons  
16 shall be given an opportunity to be heard thereon at the hearing.  
17 Upon the adoption and promulgation of such standards, the commission  
18 may enter into agreements to provide technical and financial  
19 aid to any municipal corporation for the administration and  
20 enforcement of any local land use ordinances or regulations  
21 giving effect to such standards.

22 6.3 Flood Lands Acquisition. The commission shall  
23 have power to acquire the fee or any lesser interest in lands  
24

1 and improvements thereon within the area of a flood plain  
2 for the purpose of restricting the use of such property so  
3 as to minimize the flood hazard, converting property to uses  
4 appropriate to flood plain conditions, or preventing unwar-  
5 ranted constrictions that reduce the ability of the river chan-  
6 nel to carry flood water. Any such action shall be in accord  
7 with the standards adopted and promulgated pursuant to  
8 Section 6.2.

9       6.4 Flood and Stream Stage Warnings and Posting.  
10 The commission may cause lands particularly subject to flood  
11 to be posted with flood hazard warnings, and may from time  
12 to time cause flood advisory notices to be published and cir-  
13 culated as conditions may warrant.

## 14                               ARTICLE 7

### 15                               WATERSHED MANAGEMENT

16       Section 7.1 Watersheds Generally. The commission  
17 shall promote sound practices of watershed management in  
18 the basin, including projects and facilities to retard runoff  
19 and waterflow and prevent soil erosion.

20       7.2 Soil Conservation and Forestry. The commission  
21 may acquire, sponsor or operate facilities and projects to  
22 encourage soil conservation, prevent and control erosion, and  
23 to promote land reclamation and sound forestry practices.

24       7.3 Fish and Wildlife. The commission may acquire,



1 sponsor or operate projects and facilities for the maintenance  
2 and improvement of fish and wildlife habitats related to  
3 the water resources of the basin.

#### 4 7.4 Cooperative Planning and Operation.

5 (a) The commission shall cooperate with the appro-  
6 priate agencies of the signatory parties and with other  
7 public and private agencies in the planning and effectua-  
8 tion of a coordinated program of facilities and projects  
9 authorized by this Article.

10 (b) The commission shall not operate any such project  
11 or facility unless it has first found and determined that no  
12 other suitable unit or agency of government is available to  
13 operate the same upon reasonable conditions, in accordance  
14 with the intent and purpose expressed in Section 1.5 of this  
15 compact.

### 16 ARTICLE 8

#### 17 RECREATION

18 Section 8.1 Development. The commission shall pro-  
19 vide for the development of water related public sports and  
20 recreational facilities. The commission on its own account  
21 or in cooperation with a signatory party, political subdivi-  
22 sion or any agency thereof, may provide for the construction,  
23 maintenance and administration of such facilities, subject to  
24 the provisions of Section 8.2 hereof.

#### 25 8.2 Cooperative Planning and Operation.



1 (a) The commission shall cooperate with the appro-  
2 priate agencies of the signatory parties and with other public  
3 and private agencies in the planning and effectuation of a  
4 coordinated program of facilities and projects authorized by  
5 this article.

6 (b) The commission shall not operate any such project  
7 or facility unless it has first found and determined that no  
8 other suitable unit or agency of government is available to  
9 operate the same upon reasonable conditions, in accordance  
10 with the intent and purpose expressed in Section 1.5 of this  
11 compact.

12 8.3 Operation and Maintenance. The commission  
13 within limits prescribed by this article, shall:

14 (a) Encourage activities of other public agencies having  
15 water related recreational interests and assist in the coordina-  
16 tion thereof;

17 (b) Recommend standards for the development and  
18 administration of water related recreational facilities;

19 (c) Provide for the administration, operation and main-  
20 tenance of recreational facilities owned or controlled by the  
21 commission and for the letting and supervision of private  
22 concessions in accordance with this article.

23 8.4 Concessions. The commission shall after notice and  
24 public hearing provide by regulation for the award of con-  
25 tracts for private concessions in connection with recreational

1 facilities, including any renewal or extension thereof, upon  
2 sealed competitive bids after public advertisement therefor.

### 3 ARTICLE 9

#### 4 HYDROELECTRIC POWER

5 Section 9.1 Development. The waters of the Dela-  
6 ware River and its tributaries may be impounded and used  
7 by or under authority of the commission for the generation  
8 of hydroelectric power and hydroelectric energy, in accord-  
9 ance with the comprehensive plan.

10 9.2 Power Generation. The commission may develop  
11 and operate, or authorize to be developed and operated,  
12 dams and related facilities and appurtenances for the purpose  
13 of generating hydroelectric power and hydroelectric energy.

14 9.3 Transmission. The commission may provide facil-  
15 ities for the transmission of hydroelectric power and hydro-  
16 electric energy produced by it where such facilities are not  
17 otherwise available upon reasonable terms, for the purpose  
18 of wholesale marketing of power and nothing herein shall  
19 be construed to authorize the commission to engage in the  
20 business of direct sale to consumers.

21 9.4 Development Contracts. The Commission may  
22 after public notice and hearing enter into contracts on rea-  
23 sonable terms, consideration and duration under which  
24 public utilities or public agencies may develop hydroelectric

1 power and hydroelectric energy through the use of dams,  
2 related facilities and appurtenances.

3       9.5 Rates and Charges. Rates and charges fixed by  
4 the commission for power which is produced by its facilities  
5 shall be reasonable, nondiscriminatory, and just.

6                               ARTICLE 10

7               REGULATION OF WITHDRAWALS AND DIVERSIONS

8       Section 10.1 Power of Regulation. The commission  
9 may regulate and control withdrawals and diversions from  
10 surface waters and ground waters of the basin, as provided  
11 by this article. The commission may enter into agreements  
12 with the signatory parties relating to the exercises of such  
13 power of regulation or control and may delegate to any of  
14 them such powers of the commission as it may deem neces-  
15 sary or desirable.

16       10.2 Determination of Protected Areas. The com-  
17 mission may from time to time after public hearing upon due  
18 notice determine and delineate such areas within the basin  
19 wherein the demands upon supply made by water users have  
20 developed or threaten to develop to such a degree as to create  
21 a water shortage or to impair or conflict with the require-  
22 ments or effectuation of the comprehensive plan, and any  
23 such areas may be designated as "protected areas." The



1 commission, whenever it determines that such shortage no  
2 longer exists, shall terminate the protected status of such  
3 area and shall give public notice of such termination.

4       10.3 Withdrawal Permits. In any protected areas so  
5 determined and delineated, no person, firm, corporation or  
6 other entity shall divert or withdraw water for domestic, mu-  
7 nicipal, agricultural or industrial uses in excess of such quan-  
8 tities as the commission may prescribe by general regulation,  
9 except (i) pursuant to a permit granted under this article,  
10 or (ii) pursuant to a permit or approval heretofore granted  
11 under the laws of any of the signatory states.

12       10.4 Emergency. In the event of a drought or other  
13 condition which may cause an actual and immediate short-  
14 age of available water supply within the basin, or within any  
15 part thereof, the commission may, after public hearing, de-  
16 termine and delineate the area of such shortage and declare  
17 a water supply emergency therein. For the duration of such  
18 emergency as determined by the commission no person, firm,  
19 corporation or other public or private entity shall divert or  
20 withdraw water for any purpose, in excess of such quantities  
21 as the commission may prescribe by general regulation or  
22 authorize by special permit granted hereunder.

23       10.5 Standards. Permits shall be granted, modified or  
24 denied as the case may be so as to avoid such depletion of



1 the natural stream flows and ground waters in the protected  
2 area or in an emergency area as will adversely affect the  
3 comprehensive plan or the just and equitable interests and  
4 rights of other lawful users of the same source, giving due  
5 regard to the need to balance and reconcile alternative and  
6 conflicting uses in the event of an actual or threatened short-  
7 age of water of the quality required.

8 10.6 Judicial Review. The determinations and de-  
9 lineations of the commission pursuant to Section 10.2 and  
10 the granting, modification or denial of permits pursuant to  
11 Section 10.3 through 10.5 shall be subject to judicial review  
12 in any court of competent jurisdiction.

13 10.7 Maintenance of Records. Each state shall pro-  
14 vide for the maintenance and preservation of such records  
15 of authorized diversions and withdrawals and the annual  
16 volume thereof as the commission shall prescribe. Such  
17 records and supplementary reports shall be furnished to the  
18 commission at its request.

19 10.8 Existing State Systems. Whenever the commis-  
20 sion finds it necessary or desirable to exercise the powers  
21 conferred by this article any diversion or withdrawal per-  
22 mits authorized or issued under the laws of any of the signa-  
23 tory states shall be superseded to the extent of any conflict  
24 with the control and regulation exercised by the commission.

## ARTICLE 11

## INTERGOVERNMENTAL RELATIONS

Section 11.1 Federal Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern federal projects affecting the water resources of the basin, subject in each case to the provisions of Section 1.4 of this compact:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the commission in the comprehensive plan;

(c) Each federal agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section.

11.2 State and Local Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern projects

1 of the signatory states, their political subdivisions and public  
2 corporations affecting water resources of the basin:

3 (a) The planning of all projects related to powers dele-  
4 gated to the commission by this compact shall be undertaken  
5 in consultation with the commission;

6 (b) No expenditure or commitment shall be made for  
7 or on account of the construction, acquisition or operation of  
8 any project or facility unless it shall have first been included  
9 by the commission in the comprehensive plan;

10 (c) Each state and local agency otherwise authorized  
11 by law to plan, design, construct, operate or maintain any  
12 project or facility in or for the basin shall continue to have,  
13 exercise and discharge such authority, except as specifically  
14 provided by this section.

15 11.3 Reserved Taxing Powers of States. Each of the  
16 signatory parties reserves the right to levy, assess and col-  
17 lect fees, charges and taxes on or measured by the withdrawal  
18 or diversion of waters of the basin for use within the juris-  
19 dictions of the respective signatory parties.

20 11.4 Project Costs and Evaluation Standards. The  
21 commission shall establish uniform standards and procedures  
22 for the evaluation, determination of benefits, and cost alloca-  
23 tions of projects affecting the basin, and for the determina-  
24 tion of project priorities, pursuant to the requirements of the



1 comprehensive plan and its water resources program. The  
2 commission shall develop equitable cost sharing and reim-  
3 bursement formulas for the signatory parties including:

4 (a) Uniform and consistent procedures for the allocation  
5 of project costs among purposes included in multiple-pur-  
6 pose programs;

7 (b) Contracts and arrangements for sharing financial  
8 responsibility among and with signatory parties, public  
9 bodies, groups and private enterprise, and for the supervision  
10 of their performance;

11 (c) Establishment and supervision of a system of ac-  
12 counts for reimbursable purposes and directing the payments  
13 and charges to be made from such accounts;

14 (d) Determining the basis and apportioning amounts  
15 (i) of reimbursable revenues to be paid signatory parties or  
16 their political subdivisions, and (ii) of payments in lieu of  
17 taxes to any of them.

18 11.5 Cooperative Services. The commission shall  
19 furnish technical services, advice and consultation to author-  
20 ized agencies of the signatory parties with respect to the  
21 water resources of the basin, and each of the signatory  
22 parties pledges itself to provide technical and administrative  
23 services to the commission upon request, within the limits  
24 of available appropriations and to cooperate generally with  
25 the commission for the purposes of this compact, and the



1 cost of such services may be reimbursable whenever the  
2 parties deem appropriate.

## 3 ARTICLE 12

### 4 CAPITAL FINANCING

5 Section 12.1 Borrowing Power. The commission may  
6 borrow money for any of the purposes of this compact, and  
7 may issue its negotiable bonds and other evidences of in-  
8 debtedness in respect thereto. All such bonds and evidences  
9 of indebtedness shall be payable solely out of the properties  
10 and revenues of the commission without recourse to taxation.  
11 The bonds and other obligations of the commission, except as  
12 may be otherwise provided in the indenture under which  
13 they were issued, shall be direct and general obligations of  
14 the commission and the full faith and credit of the commis-  
15 sion are hereby pledged for the prompt payment of the debt  
16 service thereon and for the fulfillment of all other undertak-  
17 ings of the commission assumed by it to or for the benefit  
18 of the holders thereof.

19 12.2 Funds and Expenses. The purposes of this com-  
20 pact shall include without limitation thereto all costs of any  
21 project or facility or any part thereof, including interest dur-  
22 ing a period of construction and a reasonable time thereafter  
23 and any incidental expenses (legal, engineering, fiscal, finan-  
24 cial consultant and other expenses) connected with issuing  
25 and disposing of the bonds; all amounts required for the

1 creation of an operating fund, construction fund, reserve  
2 fund, sinking fund, or other special fund; all other expenses  
3 connected with the planning, design, acquisition, construc-  
4 tion, completion, improvement or reconstruction of any  
5 facility or any part thereof; and reimbursement of advances  
6 by the commission or by others for such purposes and for  
7 working capital.

8       12.3 Credit Excluded; Officers, State and Municipal.  
9 The commission shall have no power to pledge the credit of  
10 any signatory party, or of any county or municipality, or  
11 to impose any obligation for payment of the bonds upon any  
12 signatory party or any county or municipality. Neither  
13 the commissioners nor any person executing the bonds  
14 shall be liable personally on the bonds of the commission  
15 or be subject to any personal liability or accountability by  
16 reason of the issuance thereof.

17       12.4 Funding and Refunding. Whenever the commis-  
18 sion deems it expedient, it may fund and refund its bonds  
19 and other obligations whether or not such bonds and obliga-  
20 tions have matured. It may provide for the issuance, sale  
21 or exchange of refunding bonds for the purpose of redeem-  
22 ing or retiring any bonds (including the payment of any  
23 premium, duplicate interest or cash adjustment required in  
24 connection therewith) issued by the commission or issued  
25 by any other issuing body, the proceeds of the sale of which

1 have been applied to any facility acquired by the commission  
2 or which are payable out of the revenues of any facility  
3 acquired by the commission. Bonds may be issued partly  
4 to refund bonds and other obligations then outstanding, and  
5 partly for any other purpose of the commission. All pro-  
6 visions of this compact applicable to the issuance of bonds  
7 are applicable to refunding bonds and to the issuance, sale or  
8 exchange thereof.

9       12.5 Bonds; Authorization Generally. Bonds and  
10 other indebtedness of the commission shall be authorized by  
11 resolution of the commission. The validity of the authoriza-  
12 tion and issuance of any bonds by the commission shall not  
13 be dependent upon nor affected in any way by: (i) the  
14 disposition of bond proceeds by the commission or by con-  
15 tract, commitment or action taken with respect to such pro-  
16 ceeds; or (ii) the failure to complete any part of the project  
17 for which bonds are authorized to be issued. The commis-  
18 sion may issue bonds in one or more series and may provide  
19 for one or more consolidated bond issues, in such principal  
20 amounts and with such terms and provisions as the commis-  
21 sion may deem necessary. The bonds may be secured by  
22 a pledge of all or any part of the property, revenues and  
23 franchises under its control. Bonds may be issued by the  
24 commission in such amount, with such maturities and in  
25 such denominations and form or forms, whether coupon or



1 registered, as to both principal and interest, as may be de-  
2 termined by the commission. The commission may provide  
3 for redemption of bonds prior to maturity on such notice  
4 and at such time or times and with such redemption pro-  
5 visions, including premiums, as the commission may  
6 determine.

#### 7 12.6 Bonds; Resolutions and Indentures Generally.

8 The commission may determine and enter into indentures  
9 providing for the principal amount, date or dates, maturities,  
10 interest rate, denominations, form, registration, transfer,  
11 interchange and other provisions of the bonds and coupons  
12 and the terms and conditions upon which the same shall be  
13 executed, issued, secured, sold, paid, redeemed, funded and  
14 refunded. The resolution of the commission authorizing any  
15 bond or any indenture so authorized under which the bonds  
16 are issued may include all such covenants and other pro-  
17 visions other than any restriction on the regulatory powers  
18 vested in the commission by this compact as the commission  
19 may deem necessary or desirable for the issue, payment,  
20 security, protection or marketing of the bonds, including  
21 without limitation covenants and other provisions as to the  
22 rates or amounts of fees, rents and other charges to be  
23 charged or made for use of the facilities; the use, pledge,  
24 custody, securing, application and disposition of such rev-



1 enues, of the proceeds of the bonds, and of any other moneys  
2 of the commission; the operation, maintenance, repair and  
3 reconstruction of the facilities and the amounts which may be  
4 expended therefor; the sale, lease or other disposition of the  
5 facilities; the insuring of the facilities and of the revenues  
6 derived therefrom; the construction or other acquisition of  
7 other facilities; the issuance of additional bonds or other in-  
8 debtedness; the rights of the bondholders and of any trustee  
9 for the bondholders upon default by the commission or other-  
10 wise; and the modification of the provisions of the indenture  
11 and of the bonds. Reference on the face of the bonds to such  
12 resolution or indenture by its date of adoption or the ap-  
13 parent date on the face thereof is sufficient to incorporate all  
14 of the provisions thereof and of this compact into the body  
15 of the bonds and their appurtenant coupons. Each taker  
16 and subsequent holder of the bonds or coupons, whether the  
17 coupons are attached to or detached from the bonds, has re-  
18 course to all of the provisions of the indenture and of this  
19 compact and is bound thereby.

20 12.7 Maximum Maturity. No bond or its terms shall  
21 mature in more than fifty years from its own date and in the  
22 event any authorized issue is divided into two or more series  
23 or divisions, the maximum maturity date herein authorized  
24 shall be calculated from the date on the face of each bond

1 separately, irrespective of the fact that different dates may be  
2 prescribed for the bonds of each separate series or division of  
3 any authorized issue.

4 12.8 Tax Exemption. All bonds issued by the com-  
5 mission under the provisions of this compact and the interest  
6 thereof shall at all times be free and exempt from all taxation  
7 by or under authority of any of the signatory parties, except  
8 for transfer, inheritance and estate taxes.

9 12.9 Interest. Bonds shall bear interest at a rate of  
10 not to exceed six percent per annum, payable annually or  
11 semi-annually.

12 12.10 Place of Payment. The commission may pro-  
13 vide for the payment of the principal and interest of bonds  
14 at any place or places within or without the signatory states,  
15 and in any specified lawful coin or currency of the United  
16 States of America.

17 12.11 Execution. The commission may provide for  
18 the execution and authentication of bonds by the manual,  
19 lithographed or printed facsimile signature of officers of the  
20 commission, and by additional authentication by a trustee or  
21 fiscal agent appointed by the commission. If any of the  
22 officers whose signatures or counter signatures appear upon  
23 the bonds or coupons cease to be officers before the delivery  
24 of the bonds or coupons, their signatures or counter signa-  
25 tures are nevertheless valid and of the same force and effect

1 as if the officers had remained in office until the delivery of  
2 the bonds and coupons.

3 12.12 Holding Own Bonds. The commission shall  
4 have power out of any funds available therefor to purchase  
5 its bonds and may hold, cancel or resell such bonds.

6 12.13 Sale. The commission may fix terms and con-  
7 ditions for the sale or other disposition of any authorized  
8 issue of bonds. The commission may sell bonds at less than  
9 their par or face value but no issue of bonds may be sold at  
10 an aggregate price below the par or face value thereof if  
11 such sale would result in a net interest cost to the commis-  
12 sion calculated upon the entire issue so sold of more than  
13 six percent per annum payable semi-annually, according to  
14 standard tables of bond values. All bonds issued and sold for  
15 cash pursuant to this act shall be sold on sealed proposals to  
16 the highest bidder. Prior to such sale, the commission shall  
17 advertise for bids by publication of a notice of sale not less  
18 than ten days prior to the date of sale, at least once in a  
19 newspaper of general circulation printed and published in  
20 New York City carrying municipal bond notices and de-  
21 voted primarily to financial news. The commission may  
22 reject any and all bids submitted and may thereafter sell the  
23 bonds so advertised for sale at private sale to any financially  
24 responsible bidder under such terms and conditions as it  
25 deems most advantageous to the public interest, but the bonds



1 shall not be sold at a net interest cost calculated upon the  
2 entire issue so advertised, greater than the lowest bid which  
3 was rejected. In the event the commission desires to issue  
4 its bonds in exchange for an existing facility or portion  
5 thereof, or in exchange for bonds secured by the revenues of  
6 an existing facility, it may exchange such bonds for the  
7 existing facility or portion thereof or for the bonds so se-  
8 cured, plus an additional amount of cash, without advertising  
9 such bonds for sale.

10       12.14 Negotiability. All bonds issued under the pro-  
11 visions of this compact are negotiable instruments, except  
12 when registered in the name of a registered owner.

13       12.15 Legal Investments. Bonds of the commission  
14 shall be legal investments for savings banks, fiduciaries and  
15 public funds in each of the signatory states.

16       12.16 Validation Proceedings. Prior to the issuance of  
17 any bonds, the commission may institute a special proceeding  
18 to determine the legality of proceedings to issue the bonds  
19 and their validity under the laws of any of the signatory  
20 parties. Such proceeding shall be instituted and prosecuted  
21 in rem and the judgment rendered therein shall be conclusive  
22 against all persons whomsoever and against each of the  
23 signatory parties.

24       12.17 Recording. No indenture need be recorded or  
25 filed in any public office, other than the office of the com-



1 mission. The pledge of revenues provided in any indenture  
2 shall take effect forthwith as provided therein and irrespec-  
3 tive of the date of receipt of such revenues by the commission  
4 or the indenture trustee. Such pledge shall be effective as  
5 provided in the indenture without physical delivery of the  
6 revenues to the commission or to the indenture trustee.

7 12.18 Pledged Revenues. Bond redemption and  
8 interest payments shall, to the extent provided in the resolu-  
9 tion or indenture, constitute a first, direct and exclusive  
10 charge and lien on all such rates, rents, tolls, fees and charges  
11 and other revenues and interest thereon received from the  
12 use and operation of the facility, and on any sinking or  
13 other funds created therefrom. All such rates, rents, tolls,  
14 fees, charges and other revenues, together with interest  
15 thereon, shall constitute a trust fund for the security and pay-  
16 ment of such bonds and except as and to the extent provided  
17 in the indenture with respect to the payment therefrom  
18 of expenses for other purposes including administration,  
19 operation, maintenance, improvements or extensions of the  
20 facilities or other purposes shall not be used or pledged for  
21 any other purpose so long as such bonds, or any of them,  
22 are outstanding and unpaid.

23 12.19 Remedies. The holder of any bond may for the  
24 equal benefit and protection of all holders of bonds similarly  
25 situated: (a) by mandamus or other appropriate proceed-

ings require and compel the performance of any of the duties imposed upon the commission or assumed by it, its officers, agents or employees under the provisions of any indenture, in connection with the acquisition, construction, operation, maintenance, repair, reconstruction or insurance of the facilities, or in connection with the collection, deposit, investment, application and disbursement of the rates, rents, tolls, fees, charges and other revenues derived from the operation and use of the facilities, or in connection with the deposit, investment and disbursement of the proceeds received from the sale of bonds; or (b) by action or suit in a court of competent jurisdiction of any signatory party require the commission to account as if it were the trustee of an express trust, or enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds.

12.20 Capital Financing by Signatory Parties; Guarantees.

(a) The signatory parties will provide such capital funds required for projects of the commission as may be authorized by their respective statutes in accordance with a cost sharing plan prepared pursuant to Article 11 of this compact; but nothing in this section shall be deemed to impose any man-

1 datory obligation on any of the signatory parties other than  
2 such obligations as may be assumed by a signatory party in  
3 connection with a specific project or facility.

4 (b) Bonds of the commission, notwithstanding any  
5 other provision of this compact, may be executed and de-  
6 livered to any duly authorized agency of any of the signatory  
7 parties without public offering and may be sold and resold  
8 with or without the guarantee of such signatory party, sub-  
9 ject to and in accordance with the constitutions of the re-  
10 spective signatory parties.

11 (c) The commission may receive and accept, and the  
12 signatory parties may make, loans, grants, appropriations,  
13 advances and payments of reimbursable or non-reimbursable  
14 funds or property in any form for the capital or operating  
15 purposes of the commission.

## 16 ARTICLE 13

### 17 PLAN, PROGRAM AND BUDGETS

18 Section 13.1 Comprehensive Plan. The commission  
19 shall develop and adopt, and may from time to time review  
20 and revise, a comprehensive plan for the immediate and long  
21 range development and use of the water resources of the ba-  
22 sin. The plan shall include all public and private projects  
23 and facilities which are required, in the judgment of the  
24 commission, for the optimum planning, development, con-  
25 servation, utilization, management and control of the water



1 resources of the basin to meet present and future needs; pro-  
2 vided that the plan shall include any projects required to con-  
3 form with any present or future decree or judgment of any  
4 court of competent jurisdiction. The commission may adopt  
5 a comprehensive plan or any revision thereof in such part  
6 or parts as it may deem appropriate, provided that before the  
7 adoption of the plan or any part or revision thereof the com-  
8 mission shall consult with water users and interested public  
9 bodies and public utilities and shall consider and give due  
10 regard to the findings and recommendations of the various  
11 agencies of the signatory parties and their political subdivi-  
12 sions. The commission shall conduct public hearings with  
13 respect to the comprehensive plan prior to the adoption of the  
14 plan or any part or revision thereof.

15 13.2 Water Resources Program. The commission  
16 shall annually adopt a water resources program, based upon  
17 the comprehensive plan, consisting of the projects and facili-  
18 ties which the commission proposes to be undertaken by the  
19 commission and by other authorized governmental and  
20 private agencies, organizations and persons during the en-  
21 suing six years or such other reasonably foreseeable period as  
22 the commission may determine. The water resources pro-  
23 gram shall include a systematic presentation of:

24 1) the quantity and quality of water resources needs for  
25 such period;



1        2) the existing and proposed projects and facilities re-  
2        quired to satisfy such needs, including all public and private  
3        projects to be anticipated;

4        3) a separate statement of the projects proposed to be  
5        undertaken by the commission during such period.

6        13.3 Annual Current Expense and Capital Budgets.

7        (a) The commission shall annually adopt a capital  
8        budget including all capital projects it proposes to undertake  
9        or continue during the budget period containing a statement  
10       of the estimated cost of each project and the method of  
11       financing thereof.

12       (b) The commission shall annually adopt a current  
13       expense budget for each fiscal year. Such budget shall in-  
14       clude the commission's estimated expenses for administra-  
15       tion, operation, maintenance and repairs, including a separate  
16       statement thereof for each project, together with its cost  
17       allocation. The total of such expenses shall be balanced by  
18       the commission's estimated revenues from all sources, includ-  
19       ing the cost allocations undertaken by any of the signatory  
20       parties in connection with any project. Following the  
21       adoption of the annual current expense budget by the com-  
22       mission, the executive director of the commission shall:

23       1) certify to the respective signatory parties the amounts  
24       due in accordance with existing cost sharing established for  
25       each project; and

2) transmit certified copies of such budget to the principal budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures. The amount required to balance the current expense budget in addition to the aggregate amount of item (1) above and all other revenues available to the commission shall be apportioned equitably among the signatory parties by unanimous vote of the commission, and the amount of such apportionment to each signatory party shall be certified together with the budget.

(c) The respective signatory parties covenant and agree to include the amounts so apportioned for the support of the current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the commission in quarterly installments during its fiscal year, provided that the commission may draw upon its working capital to finance its current expense budget pending remittances by the signatory parties.

## ARTICLE 14

## GENERAL PROVISIONS

23       Section 14.1   Auxiliary Powers of Commission; Func-  
24   tions of Commissioners.

1       (a) The commission, for the purposes of this compact,  
2 may:

3       1) Adopt and use a corporate seal, enter into contracts,  
4 sue and be sued in all courts of competent jurisdiction;

5       2) Receive and accept such payments, appropriations,  
6 grants, gifts, loans, advances and other funds, properties and  
7 services as may be transferred or made available to it by any  
8 signatory party or by any other public or private corporation  
9 or individual, and enter into agreements to make reimburse-  
10 ment for all or part thereof;

11       3) Provide for, acquire and adopt detailed engineering,  
12 administrative, financial and operating plans and specifica-  
13 tions to effectuate, maintain or develop any facility or  
14 project;

15       4) Control and regulate the use of facilities owned or  
16 operated by the commission;

17       5) Acquire, own, operate, maintain, control, sell and  
18 convey real and personal property and any interest therein  
19 by contract, purchase, lease, license, mortgage or otherwise  
20 as it may deem necessary for any project or facility, includ-  
21 ing any and all appurtenances thereto necessary, useful or  
22 convenient for such ownership, operation, control, mainte-  
23 nance or conveyance;



1       6) Have and exercise all corporate powers essential  
2 to the declared objects and purposes of the commission.

3       (b) The commissioners, subject to the provisions of this  
4 compact, shall:

5       1) Serve as the governing body of the commission,  
6 and exercise and discharge its powers and duties except  
7 as otherwise provided by or pursuant to this compact;

8       2) Determine the character of and the necessity for its  
9 obligations and expenditures and the manner in which they  
10 shall be incurred, allowed, and paid subject to any provi-  
11 sions of law specifically applicable to agencies or instru-  
12 mentalities created by compact;

13       3) Provide for the internal organization and administra-  
14 tion of the commission;

15       4) Appoint the principal officers of the commission  
16 and delegate to and allocate among them administrative  
17 functions, powers and duties;

18       5) Create and abolish offices, employments and posi-  
19 tions as it deems necessary for the purposes of the commis-  
20 sion, and subject to the provisions of this article, fix and  
21 provide for the qualification, appointment, removal, term,  
22 tenure, compensation, pension and retirement rights of its  
23 officers and employees;

24       6) Let and execute contracts to carry out the powers  
25 of the commission.



1     14.2 Regulations; Enforcement. The commission  
2 may:

3       (a) Make and enforce reasonable rules and regulations  
4 for the effectuation, application and enforcement of this com-  
5 pact; and it may adopt and enforce practices and schedules  
6 for or in connection with the use, maintenance and admin-  
7 istration of projects and facilities it may own or operate and  
8 any product or service rendered thereby; provided that any  
9 rule or regulation, other than one which deals solely with  
10 the internal management of the commission, shall be adopted  
11 only after public hearing and shall not be effective unless  
12 and until filed in accordance with the law of the respective  
13 signatory parties applicable to administrative rules and reg-  
14 ulations generally; and

15       (b) Designate any officer, agent or employee of the  
16 commission to be an investigator or watchman and such  
17 person shall be vested with the powers of a peace officer of  
18 the state in which he is duly assigned to perform his duties.

19     14.3 Tax Exemption. The commission, its property,  
20 functions, and activities shall be exempt from taxation by or  
21 under the authority of any of the signatory parties or any  
22 political subdivision thereof; provided that in lieu of prop-  
23 erty taxes the commission shall, as to specific projects, make  
24 payments to local taxing districts in annual amounts which  
25 shall equal the taxes lawfully assessed upon property for the

1 tax year next prior to its acquisition by the commission for  
2 a period of ten years. The nature and amount of such pay-  
3 ments shall be reviewed by the commission at the end of ten  
4 years, and from time to time thereafter, upon reasonable  
5 notice and opportunity to be heard to the affected taxing  
6 district, and the payments may be thereupon terminated or  
7 continued in such reasonable amount as may be necessary  
8 or desirable to take into account hardships incurred and bene-  
9 fits received by the taxing jurisdiction which are attributable  
10 to the project.

11 14.4 Meetings; Public Hearings; Records, Minutes.

12 (a) All meetings of the commission shall be open to  
13 the public.

14 (b) The commission shall conduct at least one public  
15 hearing prior to the adoption of the comprehensive plan,  
16 water resources program, annual capital and current expense  
17 budgets, the letting of any contract for the sale or other dis-  
18 position by the commission of hydroelectric energy or water  
19 resources to any person, corporation or entity, and in all  
20 other cases wherein this compact requires a public hearing.  
21 Such hearing shall be held upon at least ten days public  
22 notice given by posting at the offices of the commission. The  
23 commission shall also provide forthwith for distribution of  
24 such notice to the press and by the mailing of a copy thereof  
25 to any person who shall request such notices.

1       (c) The minutes of the commission shall be a public  
2 record open to inspection at its offices during regular business  
3 hours.

4       14.5 Officers Generally.

5       (a) The officers of the commission shall consist of an  
6 executive director and such additional officers, deputies and  
7 assistants as the commission may determine. The executive  
8 director shall be appointed and may be removed by the af-  
9 firmative vote of a majority of the full membership of the  
10 commission. All other officers and employees shall be ap-  
11 pointed by the executive director under such rules of pro-  
12 cedure as the commission may determine.

13       (b) In the appointment and promotion of officers and  
14 employees for the commission, no political, racial, religious  
15 or residence test or qualification shall be permitted or given  
16 consideration, but all such appointments and promotions  
17 shall be solely on the basis of merit and fitness. Any officer  
18 or employee of the commission who is found by the com-  
19 mission to be guilty of a violation of this section shall be  
20 removed from office by the commission.

21       14.6 Oath of Office. An oath of office in such form  
22 as the commission shall prescribe shall be taken, subscribed  
23 and filed with the commission by the executive director and  
24 by each officer appointed by him not later than fifteen days  
25 after the appointment.



1        14.7 Bond. Each officer shall give such bond and in  
2 such form and amount as the commission may require for  
3 which the commission may pay the premium.

4        14.8 Prohibited Activities.

5        (a) No commissioner, officer or employee shall:

6        1) be financially interested, either directly or indi-  
7 rectly, in any contract, sale, purchase, lease or transfer of  
8 real or personal property to which the commission is a party;

9        2) solicit or accept money or any other thing of value  
10 in addition to the compensation or expenses paid him by the  
11 commission for services performed within the scope of his  
12 official duties;

13        3) offer money or any thing of value for or in considera-  
14 tion of obtaining an appointment, promotion or privilege  
15 in his employment with the commission.

16        (b) Any officer or employee who shall willfully violate  
17 any of the provisions of this section shall forfeit his office or  
18 employment.

19        (c) Any contract or agreement knowingly made in  
20 contravention of this section is void.

21        (d) Officers and employees of the commission shall be  
22 subject in addition to the provisions of this section to such  
23 criminal and civil sanctions for misconduct in office as may



1 be imposed by federal law and the law of the signatory state  
2 in which such misconduct occurs.

3 14.9 Purchasing. Contracts for the construction, re-  
4 construction or improvement of any facility when the ex-  
5 penditure required exceeds ten thousand dollars and contracts  
6 for the purchase of services, supplies, equipment and mate-  
7 rials when the expenditure required exceeds two thousand  
8 five hundred dollars shall be advertised and let upon sealed  
9 bids to the lowest responsible bidder. Notice requesting such  
10 bids shall be published in a manner reasonably likely to at-  
11 tract prospective bidders, which publication shall be made  
12 at least ten days before bids are received and in at least  
13 two newspapers of general circulation in the basin. The  
14 commission may reject any and all bids and readvertise in  
15 its discretion. If after rejecting bids the commission deter-  
16 mines and resolves that in its opinion the supplies, equip-  
17 ment and materials may be purchased at a lower price in the  
18 open market, the commission may give each responsible  
19 bidder an opportunity to negotiate a price and may proceed  
20 to purchase the supplies, equipment and materials in the open  
21 market at a negotiated price which is lower than the lowest  
22 rejected bid of a responsible bidder, without further ob-  
23 servance of the provisions requiring bids or notice. The com-

1 mission shall adopt rules and regulations to provide for pur-  
2 chasing from the lowest responsible bidder when sealed  
3 bids, notice and publication are not required by this section.  
4 The commission may suspend and waive the provisions of  
5 this section requiring competitive bids whenever:

6 1) the purchase is to be made from or the contract to be  
7 made with the federal or any state government or any agency  
8 or political subdivision thereof or pursuant to any open end  
9 bulk purchase contract of any of them;

10 2) the public exigency requires the immediate delivery  
11 of the articles or performance of the service;

12 3) only one source of supply is available;

13 4) the equipment to be purchased is of a technical na-  
14 ture and the procurement thereof without advertising is nec-  
15 essary in order to assure standardization of equipment and  
16 interchangeability of parts in the public interest; or

17 5) services are to be provided of a specialized or pro-  
18 fessional nature.

19 14.10 Insurance. The commission may self-insure  
20 or purchase insurance and pay the premiums therefor against  
21 loss or damage to any of its properties; against liability for  
22 injury to persons or property; and against loss of revenue  
23 from any cause whatsoever. Such insurance coverage shall

1 be in such form and amount as the commission may deter-  
2 mine, subject to the requirements of any agreement arising  
3 out of the issuance of bonds by the commission.

4 14.11 Annual Independent Audit.

5 (a) As soon as practical after the closing of the fiscal  
6 year, an audit shall be made of the financial accounts of  
7 the commission. The audit shall be made by qualified certi-  
8 fied public accountants selected by the commission, who have  
9 no personal interest direct or indirect in the financial affairs  
10 of the commission or any of its officers or employees. The  
11 report of audit shall be prepared in accordance with accepted  
12 accounting practices and shall be filed with the chairman and  
13 such other officers as the commission shall direct. Copies  
14 of the report shall be distributed to each commissioner and  
15 shall be made available for public distribution.

16 (b) Each signatory party by its duly authorized officers  
17 shall be entitled to examine and audit at any time all of the  
18 books, documents, records, files and accounts and all other  
19 papers, things or property of the commission. The repre-  
20 sentatives of the signatory parties shall have access to all  
21 books, documents, records, accounts, reports, files and all  
22 other papers, things or property belonging to or in use by  
23 the commission and necessary to facilitate the audit and



1 they shall be afforded full facilities for verifying transactions  
2 with the balances or securities held by depositaries, fiscal  
3 agents and custodians.

4 (c) The financial transactions of the commission shall  
5 be subject to audit by the general accounting office in ac-  
6 cordance with the principles and procedures applicable to  
7 commercial corporate transactions and under such rules and  
8 regulations as may be prescribed by the comptroller general  
9 of the United States. The audit shall be conducted at the  
10 place or places where the accounts of the commission are  
11 kept.

12 (d) Any officer or employee who shall refuse to give  
13 all required assistance and information to the accountants se-  
14 lected by the commission or to the authorized officers of any  
15 signatory party or who shall refuse to submit to them for  
16 examination such books, documents, records, files, accounts,  
17 papers, things or property as may be requested shall forfeit  
18 his office.

19 14.12 Reports. The commission shall make and publish  
20 an annual report to the legislative bodies of the signatory  
21 parties and to the public reporting on its programs, opera-  
22 tions and finances. It may also prepare, publish and dis-  
23 tribute such other public reports and informational materials  
24 as it may deem necessary or desirable.



1        14.13 Grants, Loans or Payments by States or Politi-  
2 cal Subdivisions.

3        (a) Any or all of the signatory parties or any political  
4 subdivision thereof may:

5        1) Appropriate to the commission such funds as may  
6 be necessary to pay preliminary expenses such as the ex-  
7 penses incurred in the making of borings, and other studies  
8 of subsurface conditions, in the preparation of contracts for  
9 the sale of water and in the preparation of detailed plans  
10 and estimates required for the financing of a project;

11        2) Advance to the commission, either as grants or  
12 loans, such funds as may be necessary or convenient to  
13 finance the operation and management of or construction by  
14 the commission of any facility or project;

15        3) Make payments to the commission for benefits  
16 received or to be received from the operation of any of  
17 the projects or facilities of the commission.

18        (b) Any funds which may be loaned to the commission  
19 either by a signatory party or a political subdivision thereof  
20 shall be repaid by the commission through the issuance  
21 of bonds or out of other income of the commission, such  
22 repayment to be made within such period and upon such  
23 terms as may be agreed upon between the commission and  
24 the signatory party or political subdivision making the loan.

1        14.14    Condemnation Proceedings.

2        (a)    The commission shall have the power to acquire  
3    by condemnation the fee or any lesser interest in lands,  
4    lands lying under water, development rights in land, ripar-  
5    ian rights, water rights, waters and other real or personal  
6    property within the basin for any project or facility author-  
7    ized pursuant to this compact. This grant of power of  
8    eminent domain includes but is not limited to the power to  
9    condemn for the purposes of this compact any property  
10   already devoted to a public use, by whomsoever owned or  
11   held, other than property of a signatory party and any  
12   property held, constructed, operated or maintained in con-  
13   nection with a diversion authorized by a United States  
14   Supreme Court decree. Any condemnation of any property  
15   or franchises owned or used by a municipal or privately  
16   owned public utility, unless the affected public utility facility  
17   is to be relocated or replaced, shall be subject to the au-  
18   thority of such state board, commission or other body as  
19   may have regulatory jurisdiction over such public utility.

20        (b)    Such power of condemnation shall be exercised  
21   in accordance with the provisions of any federal law appli-  
22   cable to the commission; provided that if there is no such  
23   applicable federal law, condemnation proceedings shall be  
24   in accordance with the provisions of such general state con-

1 demnation law as may be in force in the signatory state in  
2 which the property is located.

3 (c) Any award or compensation for the taking of  
4 property pursuant to this article shall be paid by the com-  
5 mission, and none of the signatory parties nor any other  
6 agency, instrumentality or political subdivision thereof shall  
7 be liable for such award or compensation.

8 14.15 Conveyance of Lands and Relocation of Public  
9 Facilities.

10 (a) The respective officers, agencies, departments, com-  
11 missions or bodies having jurisdiction and control over real  
12 and personal property owned by the signatory parties are  
13 authorized and empowered to transfer and convey in accord-  
14 ance with the laws of the respective parties to the commis-  
15 sion any such property as may be necessary or convenient to  
16 the effectuation of the authorized purposes of the commission.

17 (b) Each political subdivision of each of the signatory  
18 parties is authorized and empowered, notwithstanding any  
19 contrary provision of law, to grant and convey to the com-  
20 mission, upon the commission's request, any real property  
21 or any interest therein owned by such political subdivision in-  
22 cluding lands lying under water and lands already devoted to  
23 public use which may be necessary or convenient to the ef-  
24 fection of the authorized purposes of the commission.



1       (c) Any highway, public utility or other public facility  
2       which will be dislocated by reason of a project deemed neces-  
3       sary by the commission to effectuate the authorized purposes  
4       of this compact shall be relocated and the cost thereof shall  
5       be paid in accordance with the law of the state in which the  
6       facility is located; provided that the cost of such relocation  
7       payable by the commission shall not in any event exceed the  
8       expenditure required to serve the public convenience and  
9       necessity.

10       14.16 Rights of Way. Permission is hereby granted  
11       to the commission to locate, construct and maintain any  
12       aqueducts, lines, pipes, conduits and auxiliary facilities au-  
13       thorized to be acquired, constructed, owned, operated or  
14       maintained by the commission in, over, under or across any  
15       streets and highways now or hereafter owned, opened or  
16       dedicated to or for public use, subject to such reasonable con-  
17       ditions as the highway department of the signatory party  
18       may require.

19       14.17 Penal Sanction. Any person, association or  
20       corporation who violates or attempts or conspires to violate  
21       any provision of this compact or any rule, regulation or order  
22       of the commission duly made, promulgated or issued pur-  
23       suant to the compact in addition to any other remedy,  
24       penalty or consequence provided by law shall be punishable  
25       as may be provided by statute of any of the signatory parties



1 within which the offense is committed; provided that in the  
2 absence of such provision any such person, association or  
3 corporation shall be liable to a penalty of not less than \$50  
4 nor more than \$1,000 for each such offense to be fixed by  
5 the court which the commission may recover in its own name  
6 in any court of competent jurisdiction, and in a summary  
7 proceeding where available under the practice and procedure  
8 of such court. For the purposes of this section in the event  
9 of a continuing offense each day of such violation, attempt  
10 or conspiracy shall constitute a separate offense.

11 14.18 Tort Liability. The commission shall be re-  
12 sponsible for claims arising out of the negligent acts or  
13 omissions of its officers, agents and employees only to the  
14 extent and subject to the procedures prescribed by law gen-  
15 erally with respect to officers, agents and employees of the  
16 government of the United States.

17 14.19 Effect on Riparian Rights. Nothing contained  
18 in this compact shall be construed as affecting or intending  
19 to affect or in any way to interfere with the law of the respec-  
20 tive signatory parties relating to riparian rights.

21 14.20 Amendments and Supplements. Amendments  
22 and supplements to this compact to implement the purposes  
23 thereof may be adopted by legislative action of any of the  
24 signatory parties concurred in by all of the others.

25 14.21 Construction and Severability. The provisions

1 of this act and of agreements thereunder shall be severable  
2 and if any phrase, clause, sentence or provision of this com-  
3 pact or such agreement is declared to be unconstitutional  
4 or the applicability thereof to any signatory party, agency  
5 or person is held invalid, the constitutionality of the remain-  
6 der of this compact or such agreement and the applicability  
7 thereof to any other signatory party, agency, person or cir-  
8 cumstance shall not be affected thereby. It is the legis-  
9 lative intent that the provisions of this compact be reason-  
10 ably and liberally construed.

11       14.22 Effective Date; Execution. This compact shall  
12 become binding and effective thirty days after the enactment  
13 of concurring legislation by the federal government, the  
14 states of Delaware, New Jersey and New York, and the  
15 Commonwealth of Pennsylvania. The compact shall be  
16 signed and sealed in six duplicate original copies by the  
17 respective chief executives of the signatory parties. One  
18 such copy shall be filed with the Secretary of State of each  
19 of the signatory parties or in accordance with the laws of  
20 the state in which the filing is made, and one copy shall be  
21 filed and retained in the archives of the commission upon its  
22 organization. The signatures shall be affixed and attested  
23 under the following form:

1       IN WITNESS WHEREOF, and in evidence of the  
2 adoption and enactment into law of this compact by the  
3 Congress and legislatures, respectively, of the signatory  
4 parties, the President of the United States and the respective  
5 Governors do hereby, in accordance with authority conferred by law, sign this compact in six duplicate original  
6 copies, as attested by the respective secretaries of state, and  
7 have caused the seals of the United States and of the respective  
8 states to be hereunto affixed this           day of  
9  
10                               , 19   .

## 11                               PART II

### 12                               ARTICLE 15

#### 13                               EFFECTUATION

14       15.1 Reservations. (a) The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

15  
16       (b) The right is hereby reserved to the Congress or  
17 any of its standing committees to require the disclosure  
18 and furnishing of such information and data by the Delaware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee.

19  
20  
21       15.2 Repealer. All acts and parts of acts inconsistent  
22 with any provision of this act are to the extent of such inconsistency hereby repealed.  
23

1        15.3. Effectuation by the President. The President  
2 is authorized to take such action as may be necessary and  
3 proper, in his discretion, to effectuate the compact and the  
4 initial organization and operation of the commission there-  
5 under.

6        15.4 Effective Date. [This act shall take effect im-  
7 mediately.





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**JOINT RESOLUTION**

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To grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes.

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By Mr. WALTER

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FEBRUARY 15, 1961

Referred to the Committee on the Judiciary







# Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF  
BUDGET AND FINANCE

(For Department  
Staff Only)

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For actions of April 17, 1961  
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**HIGHLIGHTS:** House received proposed farm bill. House received proposed bill to increase number of supergrade positions. House subcommittee voted to report Delaware River Basin Compact bill.

## HOUSE

- 1. FARM PROGRAM.** Received from the President a proposed bill "To improve and protect farm prices and farm income, to increase farmer participation in the development of farm programs, to adjust supplies of agricultural commodities in line with the requirements therefor, to improve distribution and expand exports of agricultural commodities, to liberalize and extend farm credit services, to protect the interest of consumers, and for other purposes"; to Agriculture Committee. A summary (prepared by OGC) of the bill is attached to this Digest. p. 5665
- 2. PERSONNEL.** Received from the Civil Service Commission a proposed bill "to increase the limitation on the number of positions that may be placed in the top grades of the Classification Act of 1949, as amended, and the limitation on the number of research and development positions of scientists and engineers for which special rates of pay are authorized; to fix the compensation of hearing examiners"; to Post Office and Civil Service Committee. p. 5665
- 3. DELAWARE RIVER BASIN COMPACT.** Subcommittee No. 1 of the Judiciary Committee voted to report to the full Committee H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the U. S. p. D251

4. WATERSHEDS. The Agriculture Committee approved the following watershed plans: Tortugas Arroyo, New Mexico; Caney Creek, Kentucky; Waiānāe Iki, Hawaii; and Upper Josephine-Jackson Creek; Florida. p. 5645
5. INFORMATION. Rep. Meader discussed the problem of secrecy in Government, saying that "ambitious bureaucrats have concocted and promoted the so-called doctrine of executive privilege, which, in my judgment, is a myth ... there is no right or power in the executive branch of the Government to decide what facts Congress needs concerning the conduct of the public business for the formulation of national policy." pp. 5658-62
6. BUDGETING. Rep. Pelly spoke in support of H. Res. 191, to create a select committee on fiscal organization and procedures of the Congress, stating that "In my opinion, congressional processes to carry out the constitutional responsibilities placed on Congress are inadequate. There can be no control or weighing of need as against available revenue until the appropriation process is under the jurisdiction of congressional committees directly concerned with expenditures rather than the substance of programs." p. 5663
7. POSTAL RATES. Received from the Postmaster General a draft of a proposed bill to adjust postal rates; to Post Office and Civil Service Committee. p. 5665

#### ITEMS IN APPENDIX

8. SOYBEAN PRICE SUPPORTS. Rep. Schwengel expressed concern "about the Department of Agriculture's unrealistic support price on soybeans," and inserted an article contending that soybean producers oppose the program. p. A2541
9. FARM LABOR. Rep. King inserted an article by a Schuylerville, N. Y., farm owner, "Schuylerville Woman Takes Issue With Murrow in Views on Migrant Labor," in which she defends the present program for employment of migratory farm workers. pp. A2553-4
10. WHEAT. Rep. Breeding inserted an editorial, "Wheat Eaters Wanted," discussing "the new wheat product, Redi-Wheat, being promoted by the Kansas Wheat Commission with a view to increasing the consumption of wheat." p. A2543
11. PEACE CORPS. Rep. St. George inserted a letter by Hamilton Fish criticizing the establishment of a Peace Corps and contending that it "is an extremely dangerous project." p. A2539
12. FARM ECONOMY. Rep. Weaver inserted an interview with a Hartington, Nebr., banker and businessman, "A Smalltown Banker Looks at Business at the Grassroots," discussing economic conditions in rural areas and the effect of farm income on the national economy. pp. A2549-52

#### BILLS INTRODUCED

13. RESEARCH. H. R. 6348, by Rep. Anfuso, to establish a program to foster and promote the conduct of basic and supporting scientific research through contracts entered into by the United States; to Science and Astronautics Committee.  
H. R. 6349, by Rep. Anfuso, to establish a Commission on Coordination of Scientific Activities to conduct a study and investigation of methods for coordinating the scientific, technological, and engineering programs of the United States; to Science and Astronautics Committee.









# Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF  
BUDGET AND FINANCE

(For Department  
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HIGHLIGHTS: House subcommittee voted to report bill to increase per diem travel rates. Senate subcommittee voted to report migratory labor bills relating to education, child labor, health services, and registration of contractors. House committee voted to report Delaware River Basin Compact bill.

## SENATE

1. FARM LABOR. The Migratory Labor Subcommittee of the Labor and Public Welfare Committee voted to report to the full committee the following bills: p. D276  
S. 1123, to exempt migratory labor children above certain ages from the child labor provisions of the Fair Labor Standards Act of 1938;  
S. 1124, to provide Federal assistance in providing improved educational opportunities for children of migratory farm workers;  
S. 1125, to provide Federal assistance for the adult education of migratory farm workers;  
S. 1126, to provide for the registration of contractors of migratory farm workers;  
S. 1130, to authorize the Public Health Service to make grants for improving health services and conditions for migratory farm workers; and  
S. 1132, to provide for the establishment of a National Citizens Council on Migratory Labor.

## HOUSE

2. FOREIGN AID. By a vote of 330 to 82, passed without amendment H. R. 6518, making appropriations of \$500 million for the Inter-American Social and Economic Cooperation Program and the Chilean Reconstruction and Rehabilitation Program

for the fiscal year ending June 30, 1961. Rep. Conte stated that it is anticipated that this act will provide \$4 million for agriculture extension in Latin America. pp. 6243-70

3. TEXTILES. Rep. Hemphill deplored the present trend in the textile industry, saying "We have finally come to the point where ... either the textile industry is going to get some sympathy, or there is not going to be any textile industry." pp. 6274-81
4. WATER POLLUTION. The Public Works Committee reported with amendment H. R. 6441, to amend the Federal Water Pollution Control Act to provide for a more effective program of water pollution control (H. Rept. 306). p. 6288
5. VEHICLES. The Judiciary Committee reported with amendment H. R. 2883 to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment (H. Rept. 297). p. 6287
6. LANDS. The Interior and Insular Affairs Committee reported <sup>/without amendment</sup> H. R. 5416, to include within the boundaries of Joshua Tree National Monument in California, certain Federally owned lands used in connection with the monument (H. Rept. 298). p. 6287
7. PERSONNEL. The Government Operations Committee voted to report (but did not actually report) H. R. 3279, to increase the maximum rates of per diem allowance for employees of the Government travelling on official business. p. D278
8. DELAWARE RIVER BASIN COMPACT. The Judiciary Committee voted to report (but did not actually report) H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the U. S. p. D278
9. TAXATION. The Ways and Means Committee voted to report (but did not actually report) H. R. 6413, to extend to fishermen the same treatment accorded farmers in relation to estimated income tax. p. D278

#### ITEMS IN APPENDIX

10. FARM PROGRAM. Rep. Short inserted an editorial discussing family farming operations and stating that "family farming, as we think of it, is going to be around for a long time." pp. A2794-5  
Rep. Stratton inserted an editorial discussing the importance of Otsego County, N. Y., as an agricultural area. p. A2795  
Rep. Short inserted an article opposing the proposal in the President's farm message "which calls for referendums under which a two-thirds vote of farmers could put a commodity under Federal controls." p. A2798
11. RURAL INDUSTRY. Rep. Moeller commended "the increased interest of the Department of Agriculture in the development of our rural areas," and inserted a newspaper article, "Rural Industry Agency Is Freeman Objective." pp. A2793-4
12. ELECTRIFICATION. Rep. Kastenmeier inserted a speech by REA Administrator Clapp before the Western Farmers Electric Cooperative in Anadarko, Okla., "A Secure Supply of Power," in which he discusses the Administration's program for rural electrification. pp. A2803-4







# Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF  
BUDGET AND FINANCE  
(For Department  
Staff Only)

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Issued April 27, 1961  
For actions of April 26, 1961  
87th-1st, No. 70

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**HIGHLIGHTS:** House passed bill to provide additional authorization for Public Law 480. House agreed to conference report on depressed areas bill. House committee voted to report bill to increase per diem travel rates. House committee reported Delaware River Basin Compact bill.

## HOUSE

- 1. SURPLUS COMMODITIES; FOREIGN TRADE.** Passed without amendment S. 1027, to amend Public Law 480 so as to provide an additional authorization of \$2 billion during 1961 under title I for sales of surplus commodities for foreign currencies. This bill will now be sent to the President. p. 6322  
Passed earlier without amendment a similar bill, H. R. 4728, which was tabled (pp. 6308-22). Rejected an amendment by Rep. Hoeven to reduce the authorization from \$2 billion to \$1.1 billion (pp. 6319-21). Rejected an amendment by Rep. Kyl providing that "Notwithstanding any other provisions of law any country programs under development resulting from country requests shall henceforth be reviewed and approved by the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate before being concluded" (pp. 6321-2).
- 2. DEPRESSED AREAS.** By a vote of 233 to 193, agreed to the conference report on this bill S. 1, the depressed areas bill. This bill will now be sent to the President. See Digest 67 for items of interest. pp. 6292-6308
- 3. DELAWARE RIVER BASIN COMPACT.** The Judiciary Committee reported without amendment H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the U. S. (H. Rept. 310). p. 6329
- 4. PERSONNEL.** The Government Operations Committee voted to report (but did not actually report) with amendment H. R. 3279, to increase the maximum rates of per diem allowance for employees of the Government travelling on official business. p. D283

5. FOREIGN AID. Rep. Dent inserted his statement before the Rules Committee in support of H. Res. 152, creating a select committee to conduct an investigation and study of the cost of foreign aid. pp. 6327-8
6. EDUCATION. Received from the President a proposed bill to "Extend and improve the National Defense Education Act;" to Education and Labor Committee. p.6329
7. RESEARCH. Received from GSA a letter relative to contracts negotiated for experimental, developmental, or research work, or for the manufacture or furnishing of property for same, during the 6-month period ending December 31, 1960. p. 6329

#### ITEMS IN APPENDIX

8. FOREIGN AID; APPROPRIATIONS. Speeches in the House by Reps. Hosmer and Wilson, Ind., during debate on the bill making appropriations for the Inter-American social and economic cooperation program. pp. A2837-9, A2854-5  
Extension of remarks of Rep. Ellsworth inserting an article supporting aid to Latin America. pp. A2853-9
9. WATER RESOURCES. Extension of remarks of Rep. Albert commending Sen. Kerr as a "powerful champion of the conservation and development of our Nation's natural resources," and inserting Sen. Kerr's speech, "Water Needs of the Nation from 1980 to 2000." pp. A2843-5
10. FARM LABOR. Rep. Rogers inserted an article discussing the education of children of migratory farm workers and stated that it shows "the progress being made in Florida to solve problems relating to migrant farm labor which were left out of the television presentation 'Harvest of Shame.'" pp. A2847-8  
Rep. Gubser inserted an article, "Bracero Program Defended," defending the practice of employing Mexican farm workers by domestic farm operators. p. A2854
11. BUDGETING; APPROPRIATIONS. Rep. Goodell inserted a speech by Sen. Keating favoring item veto authority for the President, establishment of a Joint Committee on the Budget, and a special session of Congress each year to consider appropriation measures. pp. A2853
12. EDUCATION EXCHANGE. Rep. Chamberlain inserted an editorial commending the international education exchange program. p. A2859
13. PEACE CORPS. Rep. Reuss inserted two articles commending the establishment of a Peace Corps. pp. A2861, A2867-8
14. FOREIGN TRADE. Extension of remarks of Rep. Shipley urging greater restrictions on the importation of articles injurious to U. S. industries. pp. A2862-3

#### BILLS INTRODUCED

15. RESEARCH. H. R. 6661, by Rep. Albert, to assist the States to provide additional facilities for research at the State agricultural experiment stations; to Agriculture Committee.
16. LANDS. H. R. 6678, by Rep. Aspinall, to authorize an exchange of lands at Wupatki National Monument, Ariz., to provide access to certain ruins in the



## DELAWARE RIVER BASIN COMPACT

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APRIL 26, 1961.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. WALTER, from the Committee on the Judiciary, submitted the following

### R E P O R T

[To accompany H.J. Res. 225]

The Committee on the Judiciary, to whom was referred the joint resolution (H.J. Res. 225) to grant the consent of Congress to the Delaware River Basin compact and to enter into such compact on behalf of the United States, and for related purposes, having considered the same, report favorably thereon without an amendment and recommend that the joint resolution do pass.

#### PURPOSE

The purpose of this legislation is to grant the consent of Congress to an interstate-Federal compact that will create a regional governmental commission to administer comprehensively the water resources of the Delaware River Basin.

Parties to the compact are the Federal Government and the States of Pennsylvania, New York, New Jersey, and Delaware. The compact commission will consist of five persons—a Federal representative appointed by the President of the United States and the four State Governors. This commission will be charged with the adoption and operation of a single comprehensive plan for the immediate and long-range development and uses of the water resources of the Delaware. The plan is to be a framework within which Federal agencies may operate, within which States may operate, within which private enterprise may operate—each fully within the present scope of its powers.

#### GENERAL STATEMENT

The urgent needs of the areas serviced by the Delaware River and its tributaries have long been a matter of common knowledge. They

extend backward into the 1920's. The needs affect local, State, regional, and national planning and control. There are today some 19 Federal agencies that are involved with the problems of the Delaware Basin. In addition, there are 57 State and interstate departments, boards, and commissions, as well as some 250 public and private water companies, having some concern with the water resources of the Delaware. As a result, the Delaware problems are dealt with by a multiplicity of agencies—Federal, State, and local—with a confused splintering of responsibilities.

Efforts have been made over the years by the States and by the Federal Government to overcome this division of responsibilities without success. As early as the 1920's a tristate compact creating a commission to administer and coordinate the water functions of the Delaware was attempted. Again, in 1934, the Corps of Engineers, after a survey of the Delaware, suggested the establishment of an interstate agency so that there could be unified control in the planning, design, and construction of water resource projects. Nothing further was done. In 1953 an interstate commission proposal known as Incodel was almost accepted but failed of adoption because one of the four States in the basin did not join in the agreement.

The absence of some centralized authority to coordinate and develop the water resources of the Delaware Basin caused a serious interstate conflict which in 1931 led to a Supreme Court decree granting 440 million gallons of water a day to New York City. This decree which has since been amended to allow the city to take 800 million gallons per day is under the continuing jurisdiction of the Supreme Court which has appointed a rivermaster to supervise the diversion of the Delaware waters and other matters. Under the terms of the decree any of the parties may go back to the Court to seek a modification of its diversion or release provisions.

In 1955, in another attempt to settle these longstanding problems, the Governors of Pennsylvania, New York, New Jersey, and Delaware, as well as the mayors of New York City and Philadelphia, established the Delaware River Basin Advisory Committee to review the water resources of the basin and adjacent areas. This latter committee, as a result of extensive study, suggested that a central agency be created to give an integrated, unified administration to the basin's water resources. This recommendation is the basis for the proposed compact.

Meanwhile, in 1956, shortly after Hurricane Diane caused inestimable damage through much of the Delaware Basin, the Congress directed the U.S. Army Corps of Engineers to conduct an extensive 3-year, \$2 million physical survey of the basin area. The primary purpose of this study was to evolve a comprehensive plan for the development and administration of the basin's resources. If enacted into law, the commission setup in the compact would adopt the comprehensive plan being promulgated by the Army Corps of Engineers.

The compact, in addition, will provide a basis for settling, without recourse to lengthy and involved litigation, the longstanding disputes before the Supreme Court. The compact provides for waiver of the right to go back to the Supreme Court as to diversions and compensating releases. Further applications for diversions and releases will be decided by the new commission which, under the compact, must apply the Supreme Court's rules of equitable apportionment.



The waters of the Delaware, of course, respect only their own natural boundaries (the river basin). They do not respect manmade political boundaries. Yet the needs of the individual States, as well as that of the Federal Government, are functionally interrelated, and the uses to which the States and the Federal Government put the Delaware's waters are all interdependent. Unfortunately, because of State and political boundaries, the various governments in the basin are not organized to control effectively and develop the basin's water and related resources. State agencies are limited in their actions by state boundaries. Federal agencies as will be detailed later in this report, have only responsibility for certain aspects of water problems. Water resources planning, control, and development is a technical, complex, and expensive proposition and requires many years from the conception to the completion of a large project such as a dam, reservoir, or hydroelectric plant. There is now no agency to coordinate the many agencies interested in this planning and development for the whole basin.

Furthermore, the demands upon the water and related resources of the basin are mounting daily and will multiply in the years to come. The present basin population of 22 million is expected to increase to 30 million by 1980 and 42 million by 2010. Industrial growth is expected to double by 1980. The government employment, industry and economic development of the entire region, as well as the health, safety, and general welfare of its population, require that water resources facilities be ready and operative when needed.

It seems logical, therefore, to create a single agency which can cut across political boundary lines and which can coordinate the functions of Federal, State, and local governments and adopt unified solutions to river basin problems.

The proposed compact, in the considered opinion of the committee, will meet the requirements of this problem. It grants the consent of Congress not only to the compacting States to enter into this compact, but also it makes the Federal Government a participating partner. This Federal-State arrangement will enable the new compact commission to carry out in an integrated and unified fashion the duties and responsibilities necessary to obtain the maximum benefits of the Delaware's potentials.

The compact provides a number of controls over the proposed commission, so that the interests of the Federal Government as well as those of the States are protected and responsiveness and accountability by the new commission to the public will be assured.

### WHY A FEDERAL-INTERSTATE COMPACT?

There is general agreement that the four States should be permitted and encouraged to join in a river basin agency, but your committee has been urged to leave the Federal departments out of it. The implications of this simple suggestion go to the heart of the governmental problem in the Delaware River Basin development.

To appreciate the importance of a joint Federal-State agency, as compared with the all Federal or the dual level approach, it is necessary to consider the modern objectives of river basin development

in the Delaware in the light of specific water resources activities and present Federal-State relations:

(1) To begin with, the natural condition of the main stream and tributaries of the Delaware completely disregards political boundaries and the distribution of governmental authority and responsibilities; and, as noted earlier, there are 43 State agencies, 14 interstate agencies, and 19 Federal agencies exercising a multiplicity of powers and duties related to the water resources of the Delaware River Basin.

(2) Under present legislative authorizations, the Federal Government has assumed principal responsibility with respect to navigation, flood control, hydropower development, irrigation, and river basin surveys. At the same time, the States have primary responsibility for water supply, sewage disposal, drainage, fish and wildlife. These functions are by their nature interdependent with the Federal functions for the reason that they often represent alternative development, use, or control of water resources.

(3) Federal and State Governments overlap in electric power regulation, recreation, conservation, forestry, soil conservation, and, most recently, streamflow regulation. To the extent that Federal grants and aids are made available for these functions, the Federal Government tends to assume a dominant position, but there is a strong residual responsibility of the States which should be encouraged in the National as well as State interest.

(4) Under State law, private rights are governed and administered under the riparian rights doctrine. The States in the East are accustomed to applying and administering this law, but the very nature of river basin development leaves these rights in part subject to the Federal legal system as well. It is obvious that water rights law must be a basic consideration in water resource planning and development. For this reason the two systems of legal rights can be most effectively adapted to conditions in the Delaware River Basin under a single administrative authority.

It is apparent from this brief summary of the objectives and activities which affect a multipurpose development of the Delaware that there is a vital need to coordinate the various activities of the many departments at the State and Federal levels if all of the various alternative demands upon the one river are to be reconciled, planned efficiently, and operated without conflict. Here again, a single basin agency is the obvious answer, since the basin is universally recognized as the proper unit for water resources administration.

It has also been argued that the proposed compact presents an issue as to the preservation of what is called the Federal system. The concept behind this argument would define the Federal system as one "whereby the National Government may pursue, without inhibition, objects of government over which it has power of direct action—both exclusive and concurrent." This notion assumes that there is something in federalism which requires Federal departments to remain free to move about in their own spheres of influence, to compete, and to confuse their parochial interests with national policy. This may have been a timely view a half century ago; it is antique today. An exploding economy, and an intensified national defense have pointed up the need for cooperative governmental action for our water resources. As a former legislative planning analyst in the Department of Agriculture so aptly stated:



To a great degree, recent public interest in this area stems from the major demands that a growing economy, a rising standard of living, and an intensified national defense have placed upon the Nation's water resources. Ever-widening concern with the organization and operation of water resources programs, however, must also be associated with the reevaluation of our Federal system of government which is currently taking place. The centralizing influences of technology and communications and two decades of unprecedented National Government growth during depression and war are forcing a sober reappraisal of the role of the States and local governments in our national system.

In no other arena are the complex aspects of federalism so starkly presented as in water resources. Their development epitomizes, perhaps better than any other function, the need for intergovernmental cooperation (Engelbert: "Federalism and Water Resources Development," "Law and Contemporary Problems," vol. 22, 1957, p. 325).

Since President Truman's administration there have been at least five national commissions which have carefully examined the question of administrative organization for water resources development. Every one of them has indicated a need for a new form of cooperative instrument to be used by the Federal departments and the States jointly. For example:

"Because many of the important possibilities of stabilizing or further developing the opportunities for optimum use of water, mineral, and land resources transcend the boundaries and the legal jurisdiction of the States, it is inevitable that there be Federal *participation* with the people of the States and localities and their governments. Interstate compacts should lessen the degree of Federal concern, but *partnership* with the Federal Government in preparation and fulfillment of regional water and related land programs, in greater or lesser degree, must everywhere be expected \* \* \*. The legal jurisdiction of the United States over navigation and certain other water uses, \* \* \* make this necessary. Quite apart from these reasons, there is usually no other constant source of governmental leadership transcending State boundaries which can help the people of a multistate region review the full scope of their water resources problems and possibilities or find the funds that in many cases are necessary for the expensive multipurpose tasks that must be undertaken." (Report of the President's (Truman) Water Resources Policy Commission (1950). [Emphasis supplied.]

"Our task force makes a listing of 25 principal Federal agencies having functions relating to water and its use or control according to their field of interest. The list amply illustrates the diffusion of authority among the agencies on water development, and the need for clarification and coordination.

"Conflicts also arise between States over proposed projects in the same river basin, which, of course, may involve the Federal Government. The major Federal agencies are

separately engaged in many river drainage basins. There is constant conflict and rivalries between them. One result is that local interests play one Federal agency against another to secure the greatest benefits (Report to the Congress by the (Hoover) Commission on Organization of the Executive Branch of the Government (1955)).

“The committee recommends—

(a) That future multipurpose basinwide development of water resources should be on a partnership basis between the Federal Government and the States.

(b) That the States in general assume more leadership and responsibility in this field.

(c) That direction and control be provided by balanced division of authority between the Federal Government and the States concerned (Report of The President's (Eisenhower) Commission on Intergovernmental Relations (1955)).

“The studies make it obvious that future needs in the field of water resources development will be so great that meeting them will require the combined efforts of Federal, State, and local governments and private enterprise, working together, with their efforts coordinated to a high degree.” (Report of the Senate Select (Kerr) Committee on National Water Resources, January 1961.)

The conclusion is inescapable: If the powers and functions of law, planning, administration, and finance for a single river basin are to be integrated properly, the solution lies in a single joint agency composed of the governmental bodies concerned.

In your committee's judgment, this is the only way to express a dynamic federalism. It fashions the instruments of law, nature, and government to meet the requirements of fully effective public action in the Delaware River Basin. It also offers opportunities for greater administrative efficiency and effectiveness, which are of almost equal importance.

#### PROGRAM EFFICIENCY

The establishment of a single agency to coordinate Federal interests in the Delaware River Basin is of as much importance as the joining together of the four States and the resultant coordination of their various State activities. In brief, there is one river, one basin, all water resources are functionally interrelated, and each use is dependent upon the other. Therefore, one comprehensive plan and one coordinating and integrating agency is essential for efficient development and operation.

Many of the problems of any large river can be most efficiently solved by applying development and control measures in combination. For example, land-use regulations combined with storage reservoirs can often produce a more efficient solution to the problem of flood damages than either measure taken alone. As another example, storage reservoirs and pollution control together can often lead to the most economic solution of the problem of water supply. In many instances some of the measures required can be exercised



only under State power, while others are available only (or primarily) to the Federal Government. The combination of Federal and State powers within one basin agency will therefore mean that the agency can integrate all available powers and at least have the opportunity to produce the least cost solution to water problems. Such opportunities are not available to wholly Federal or wholly non-Federal agencies.

Recent studies of our national water resources have amply demonstrated the need for integrating the program activities of the many different Federal agencies concerned with river basin development. In no realistic sense can an exclusively interstate basin agency plan for, or integrate, the activities of Federal agencies. The Federal Government can be controlled only by itself. Having the Federal Government as one of the primary parties to the compact is the best way to enable the basin agency to effectively coordinate and integrate the programs of the Federal agencies. Without integration, comprehensive development plans cannot be efficiently implemented. If the basin agency were to be non-Federal, it would mean that coordination and integration of Federal agency programs, both among themselves and with the programs that the basin agency itself would carry out, would rest solely on voluntary cooperation. The reports of both Hoover Commissions and the other national water resources study commissions show conclusively that voluntary cooperation has never yet worked in a satisfactory manner.

The compact will enforce a closer degree of coordination between Federal agency programs and State agency programs. This is important for its own sake. But it will also be of great importance to many State programs, such as fish and wildlife, which, in times past (and present) have seen their interests overridden or overlooked by the rather cavalier approach of some Federal agencies who are under no legal or administrative obligation to "clear it with the States."

It is almost needless to add that the suggestion that Federal participation be limited to the appointment of a Federal member to sit on the basin commission would completely fail to achieve the purposes already described. Such a Federal member could at most provide consultation as to Federal agency policies. But it is not consultation that is now lacking: it is resolution of differences and decision of policy. In a single-purpose project this is difficult; in a multipurpose development of the Delaware River it has proved impracticable. With the multitude of agencies already authorized to act in the basin, the conditions call for a partnership effort in a partnership form to adopt and carry out a partnership of interest and program.

The proposed compact would carry out this purpose while fully safeguarding any and all supervening national interests and preserving the application within the basin of established national policies as set forth in existing statutes, subject only to the requirement that all function within the framework of a single comprehensive plan for the basin.

#### POWER OF FEDERAL GOVERNMENT TO WITHDRAW FROM CONTRACT

It has been demonstrated that the Federal Government would be very much a senior partner under the compact. This status is primarily the result of the constitutional limits of Federal participation;

that is, that the Congress could not divest itself of authority and responsibility conferred by the Constitution in such fields as commerce and navigation. The compact draft expressly provides:

1.4 Powers of Congress; Withdrawal. Nothing in this compact shall be construed to relinquish the functions, powers or duties of the Congress of the United States with respect to the control of any navigable waters within the basin, nor shall any provision hereof be construed in derogation of any of the constitutional powers of the Congress to regulate commerce among the states and with foreign nations. The power and right of the Congress to withdraw the federal government as a party to this compact or to revise or modify the terms, conditions and provisions under which it may remain a party by amendment, repeal or modification of any federal statute applicable thereto is recognized by the signatory parties.

The Congress would also retain that domination which goes with control over the purse strings, since projects are left for future authorization. The basin agency would only have such powers as are delegated to it, and with respect to national policy, the Congress, by qualifying the terms and the conditions upon which the Federal Government would remain a partner, may at all times limit the activities of the basin agency to conform to national policy. The compact itself would make all of the basin agency's operation subject to audit by the Comptroller General. In addition, the right is reserved to the committees of Congress to require full disclosure, by the Delaware compact agency, of all information and data in the agency's files. All future amendments to the compact must be approved by Congress. The basin agency would thus be fully accountable to the Congress.

#### COMPACT'S RELATIONSHIP TO ESTABLISHED NATIONAL POLICIES

The proposed basin agency would operate within established national policies prescribed by the Congress. While the basin agency is necessarily delegated sufficient powers commensurate with the broad sweep of the problems of comprehensive and multipurpose development, as an agency of regional government it would be fully subject to the substantive requirements of all Federal laws relating to the Delaware River Basin, under the simple principle prescribed by the Constitution itself (article VI) "that the Constitution, and the laws of the United States which shall be made in pursuance thereof; \* \* \* shall be the supreme law of the land; \* \* \*." There is nothing in the compact bill itself which would restrict the operation of any other Federal policy with respect to water and related natural resources. Some of the Federal agencies seem to have been under a misapprehension in this regard. In fact, the only restriction on the Federal agencies themselves is that they operate within the framework of the comprehensive plan for the Delaware River Basin which would be developed by the basin agency as an instrumentality of the Federal Government as well as of the States.

Even were the language of the compact bill to be construed in any manner as to exempt the basin agency from continuing answerability



to the Congress, any such provision would be totally ineffectual under the Constitution itself. Neither by compact nor by any other form of legislation can the Congress divest itself of the authority vested in the National Government by the commerce clause and other clauses of the Federal Constitution. On the other hand, the Congress may deem it advisable to require the exercise of some discretion under present or future national statutes, as exercised by the conventional departments within a coordinating framework provided by an agency specially constituted for the Delaware River Basin. This compact presents an opportunity to effectuate national policy through an administrative agency constituted in such manner as to resolve the complex intergovernmental relationships which are inherent in river basin development. It is thus clear that unless and until the Congress should otherwise provide by statute, national policy now established by acts of Congress would remain fully effective within the basin. Examples of such Federal laws are:

(1) The general jurisdiction vested in the Corps of Engineers relating to Federal investigations and improvements of rivers, harbors, and other waterways (33 U.S.C. 540).

(2) The Flood Control Act of 1944 and similar acts (33 U.S.C. 701).

(3) Control and regulation of obstructions to navigation or to navigable capacity as vested in the Secretary of the Army and the Chief of Engineers by the General Bridge Act and similar statutes (33 U.S.C. 401, 403, 419, 433, 525).

(4) The jurisdiction of the Department of the Army with respect to Federal investigations and improvements of rivers for flood control, channel, and major drainage improvements (33 U.S.C. 701a, 701b, 708, 709).

(5) Operation of basin structures and facilities by the Corps of Engineers under the 1944 Flood Control Act and other general statutes (33 U.S.C. 709, 540) or by local agencies in accordance with regulations prescribed by the Secretary of the Army (33 U.S.C. 701c).

(6) The Federal Power Act licensing provisions, and its provisions for the marketing of surplus power by the Secretary of the Interior at rates approved by the Federal Power Commission and with preference to public bodies and cooperatives (16 U.S.C. 797e, 825s).

(7) The jurisdiction of the Federal Power Commission as prescribed by the Federal Power Act (16 U.S.C. 817 et seq., as construed in *United States ex rel. Chapman v. Federal Power Commission* (345 U.S. 153 (1953))).

(8) The authority of the U.S. Public Health Service with respect to pollution abatement in interstate waters, which is already required to be exercised in cooperation with other Federal agencies, with State water pollution control agencies and interstate agencies, and with the municipalities and industries involved (33 U.S.C. 466a):

(9) The functions of the Soil Conservation Service to make surveys and carry out preventive measures, and to carry out particular programs authorized by statute, which already provide for cooperation with other agencies (16 U.S.C. 590a; 33 U.S.C. 701a, 701b):

(10) The functions, powers, and duties of the Geological Survey, Weather Bureau, Fish and Wildlife Service, Bureau of Mines, National Park Service, Forest Service, and other Federal agencies will be not only preserved but required to carry out a comprehensive plan.

(11) The Walsh-Healy and Davis-Bacon Acts and other labor standards prescribed by Federal law.

#### HYDROELECTRIC POWER

The question of the application of national policy with respect to hydroelectric power in the Delaware River Basin was particularly urged upon this committee. Representatives of the public power association and of rural electric cooperatives were critical of the failure of the compact to include a preference clause giving public bodies and cooperatives a prior right to purchase such power as might be generated by projects in the basin. In addition, it is argued that the basin agency should be required to construct transmission lines at public expense in order to enable the preference customers to take advantage of their preference. The compact draft is, of course, neutral on the issue of public versus private power. The preference clause and related matters is not made a part of the compact because the compact deals with the structure of the administrative agency and does not actually authorize any particular project; project authorization is to come later. When the authorization is made, and it is apparent whether Federal funds or State funds are to be employed, the preference question can be resolved project by project.

The preference clause is a matter of both philosophy and practical construction of the compact bill. From the viewpoint of national policy it should be kept in mind that we are not here considering a TVA area. The Delaware River Basin is already covered by a grid of marketing facilities, including transmission, which are owned and operated by privately owned public utilities. It is at least questionable whether the public interest is best served by duplicating transmission facilities which are already available in order to implement a preference to the very small segment of the electric utility distribution systems. Public power is now 1 percent of installed capacity in the basin, and it has been estimated that the potential of development under the proposed basin agency would be less than 5 percent of the total capacity in the basin.

It is also questionable whether Federal policy which has been developed to encourage the electrification of areas lacking proper service is actually applicable under the highly urbanized condition of the Delaware River Basin. If power is sold to investor-owned public utilities, and at a reasonable profit, the greater public benefit might lie in two factors, not present in other areas:

(a) The public investment could provide lower cost power to the greater number of people served by private power utilities; and

(b) A greater benefit to the area as a whole might be achieved by allowing the basin agency to realize some net revenues from hydropower and thereby to make feasible other public benefit projects which are equally important to the customers of rural electric and municipal public utilities.



Beyond these policy considerations, the committee is convinced that the existing preference clauses, such as that contained in the Flood Control Act of 1944 (sec. 5) governing projects financed with Federal funds, would continue to apply to any projects authorized under that act, unless the Congress were to specifically provide otherwise. By contrast, if the preference clause were to be written into the present compact bill, the Congress would be asking the four States which have no such policy to subscribe to it even as to projects which may be financed solely out of State funds. This is the place where National policy and State policy can easily be reconciled simply by leaving the compact draft neutral on the question, as it now is, and determining the preference question when specific projects are authorized in the future. At present we are writing a constitution for the basin agency; in the future when we write the legislation to authorize projects will be the time to deal with the preference question.

### FINANCING

While the yearly current expenses of the agency will be apportioned among the signatory parties, it is to be noted that the compact does not (1) authorize any project and (2) does not commit the partners, including the Federal Government, to any particular expenditures. Each project would be separately authorized in the future and the financing of it would be part of the future authorization.

The compact agency may, of course, receive appropriations, grants, or loans from Federal and State Governments (sec. 14.1(a)(2)). In addition, it may borrow money and issue bonds to finance various projects, but it cannot pledge the credit of any of the signatory parties (secs. 12.5, 12.3, 12.1, 12.20(e)). While the compact agency is authorized to make reasonable charges for the use of facilities which it may own or operate, and for products and services rendered by such facilities (sec. 3.7), it does not appear, from the nature of the projects in the Corps of Engineers comprehensive plan, that the agency will have very much in the way of project revenue with which to provide itself with a credit base. Capital financing will depend largely upon the willingness of the States and the Federal Government to make capital available for the particular project.

The compact agency will have a current expense budget and a capital budget. The current expense budget is to be apportioned among the signatory parties (of which the Federal Government is one) by unanimous vote of the agency's members; each signatory party, of course, reserving its usual budget review and approval of the amount so apportioned (sec. 13.3(b)). The capital budgets are to be negotiated by the agency representatives at such times as capital improvements are undertaken, and the sharing of capital costs among the signatory partners will be proportionate to the distribution of benefits from the proposed improvement. The commission will prepare standard formulas for this purpose (secs. 13.3(a), 12.20, 11.4), but nothing in these provisions imposes any mandatory obligations on any of the signatory parties (12.20).

## CONSTITUTIONAL QUESTIONS

• When this legislation was introduced, there was much concern about the constitutionality of the Federal Government participating in the compact as a partner with the four States. In fact, the administration published a "policy paper" which, among other things, indicated reservations on the constitutional issues. Nowhere in that "policy paper", however, was there any statement that the present compact is unconstitutional.

There can be little doubt that the Congress has the constitutional power to enter into a compact or contractual agreement with the States for the purpose of developing the water and other resources of the Delaware River. The Supreme Court has uniformly upheld contractual arrangements in the nature of compacts between the Federal Government and one or more of the States. As early as the 1800's the United States entered into an agreement with four States for the repair and maintenance of the Cumberland Road, which the United States had built (*Seawright v. Stokes*, 3 How. 151). The Court, in upholding the agreements, did so in the following significant terms:

The object of the compacts was to preserve the road for the purposes for which it had been made. The right of the several States to enter into these agreements will hardly be questioned by anyone \* \* \*. Neither do we see any just ground for questioning the power of Congress (p. 166).

More recently, the Supreme Court upheld an agreement between the United States and California whereby California ceded land to the United States for a national park, reserving to California the right to tax persons and property on the land (*Collins v. Yosemite Park and Curry Company*, 304 U.S. 518 (1937)).

The Supreme Court itself has recognized the advantages of water resources development through the use of Federal-interstate compacts. In *West Virginia ex rel. Dyer v. Sims* (341 U.S. 22), which involved an interpretation of the Ohio River Valley Water Sanitation Compact, Mr. Justice Frankfurter, in noting that the compact was not only a supple device for dealing with the State interests confined within the region but also was a device for safeguarding the national interest, stated:

That it is also a means of safeguarding the national interest is well illustrated in the compact now under review. Not only was congressional consent required, as for all compacts; direct participation by the Federal Government was provided in the President's appointment of three members of the compact commission (p. 28).

Fears also have been expressed concerning the fact that the proposed Delaware compact contains a provision for a Federal representative on the commission, who would be a voting member. In answer, it need only be pointed out that there is not only (1) Federal statutory precedent for a Federal representative on a compact commission, but also (2) for a Federal representative who is a voting representative. On the Ohio Valley water sanitation compact (54 Stat. 752) there are three mandatory Federal representatives—all voting members. This compact commission is an operating, regulatory agency with power



to adopt and enforce its regulations. On the Upper Colorado River Basin compact (63 Stat. 31) there is a Federal representative who also votes and is the presiding officer. There are three voting Federal representatives on the Potomac River Basin compact (54 Stat. 748). In the Yellowstone River compact the Federal representative serves as a tie breaker. In addition there are at least 14 other interstate compact commissions on which Federal representatives may sit but do not vote (Commission on Organization of the Executive Branch (1954) p. 21).

While the above-mentioned compacts are, in the committee's opinion, ample precedent for the constitutional validity of the power of Congress to make the Federal Government a participating member of an interstate-Federal compact, it may be argued that the above-cited compacts are to be distinguished from the Delaware compact in that the cited compacts have advisory powers only whereas the Delaware compact will be an operating commission which will actually operate facilities. In answer it need only be noted that the Ohio Valley water sanitation compact, cited above, is an operating, regulatory agency. In further answer, it should be noted that such an argument has nothing to do with the constitutional power of Congress to authorize a Federal representative with voting rights. Such power is already well established. The argument presents only a question of policy. For reasons stated elsewhere in the report especially the part entitled "Why a Federal-Interstate Compact?", the committee is convinced that there ought to be, as a matter of policy, a Federal representative with voting rights in order to insure greater Federal-State cooperation and coordination in the planning, development, and operation of the Delaware River Basin.

It also has been urged that a study by the Library of Congress reveals that of some 130 to 140 compacts examined, there was, with one exception, no Federal representation on any of the compacts. While such a number of compacts is impressive, it should be pointed out that upward of 100 of the compacts brought to the attention of the committee staff relate to simple boundary line adjustments or other one-time-only agreements between the States concerned. Of course, there was no Federal representation; in fact the compacts provided for no commission or agency of any kind. Of the remaining number, some 30 provided for commissions and, as pointed out above, 18 of those provide for Federal representation.

On the issue of delegation of congressional power, your committee wishes to note that the present bill enacting the proposed Delaware River compact, and creating an agency, the Delaware River Commission, to carry out certain powers and duties, is no different from other Federal legislation regulating specified areas and creating new agencies to administer law. The fact that the new Delaware River Commission is in part a State instrumentality, as well as a Federal instrumentality, does no harm to the Federal power. There are many instances of the execution of Federal law and policy by State instrumentalities and officers. State prisons and personnel, for example, keep and discipline Federal prisoners (18 U.S.C. 4002). The Social Security Act furnishes other instances (42 U.S.C. 302, 421, 503, 602, 703, 713, 1202, 1352.) The Federal control over social security administration is in part maintained by grants-in-aid for the support of State administrative agencies, conditioned upon their satisfying

Federal standards concerning policies and methods. Other examples may be found in the conservation area (16 U.S.C. 590a-590g—soil conservation), (590r-590z—water conservation), (1001-1008—watershed protection and flood prevention). From the State level, there are three major Federal statutes requiring Federal agencies to be controlled by State water law: The Federal Reclamation Act of 1902, Federal Power Act of 1920, and the Watershed Protection and Preservation Act of 1954.

Thus, as a practical matter, the use of State personnel to carry out Federal law or policy is well accepted, particularly in the water resources and conservation field.

Finally, on the constitutional issue, the compact has a savings clause which expressly provides that if any portion of the compact is found to be unconstitutional, the remainder of the compact shall remain valid. Section 14.21 provides:

Construction and Severability. The provisions of this act and of agreements thereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such agreement is declared to be unconstitutional or the applicability thereof to any signatory party, agency or person is held invalid, the constitutionality of the remainder of this compact or such agreement and the applicability thereof to any other signatory party, agency, person or circumstance shall not be affected thereby. It is the legislative intent that the provisions of this compact be reasonably and liberally construed.

#### SECTION ANALYSIS

The compact bill consists of two parts: Part 1 is the compact itself, which must be enacted in identical form by all of the compacting parties; and part 2, which is the nonconcurrent part setting forth various enabling matters which relate solely to the law of the enacting party, in this case the Congress.

The preamble sets forth the need and the background of the compact.

Article 1 is primarily a definition section which includes a description of the natural area of the river basin and other pertinent definitions. Section 1.3 sets forth various legislative findings, such as that—

the water resources of the basin are subject to the sovereign right and responsibility of the signatory parties, and it is the purpose of this compact to provide for a joint exercise of such powers of sovereignty in the common interests of the people of the region; and that such resources are functionally inter-related, and their uses are interdependent. A single administrative agency is therefore essential for effective and economical direction, supervision, and coordination of efforts and programs of federal, state and local governments and of private enterprise.

Section 1.4 specifically affirms the power of Congress with respect to navigable waters and includes as part of the compact itself the power and right of the Congress to withdraw the Federal Government as a party or to revise or modify the terms, conditions, and provisions under which it may remain a party to the compact.



Section 1.5 directs the basin agency to utilize and employ, so far as feasible and advantageous, the officers and agencies of the signatory parties, and section 11.5 reaffirms that such utilization must be within the limits of available appropriations and may be on a cost-reimbursement basis.

Section 1.6 establishes the duration of the compact at 100 years with provision for extensions for additional periods of 100 years and for termination by action of any of the signatory States taken between the 75th and 80th year of any such 100-year period.

Article 2 creates the Delaware River Basin Commission, which is both the governmental entity and the name of its governing body, as an agency and instrumentality of both the Federal Government and the States. The commission is to consist of the Governors of the signatory States ex officio and one commissioner to be appointed by the President of the United States to serve during the term of office of the President.

Section 2.5 provides that each commissioner shall have one vote, and section 2.4 provides that they shall serve without compensation. The respective commissioners are authorized to appoint alternates.

Article 3 sets forth the general powers and duties of the commission, to develop and effectuate plans, policies, and projects relating to the water resources of the basin.

Section 3.2 sets forth requirements, which are spelled out in greater detail in article 13 of the compact, for the formulation and adoption of (a) a comprehensive plan, (b) a water resources program based upon the comprehensive plan which would cover projects which should be undertaken by some public or private entity interested in the basin during a reasonably foreseeable period, and (c) an annual capital budget covering the projects that the commission itself intends to take up during the current year, together with an annual current expense budget for its operations.

Sections 3.3, 3.4, and 3.5 settle all outstanding issues as to water diversion rights among the signatory States. As to interstate diversions and allocations authorized prior to the compact, the parties agree to be governed by the provisions of the U.S. Supreme Court decree in *New Jersey v. New York* (347 U.S. 995 (1954)), and as to all future allocations among the States the basin agency or commission—

shall have power from time to time as need appears, in accordance with the doctrine of equitable apportionment, to allocate the waters of the basin to and among the States signatory to this compact and to and among their respective political subdivisions, and to impose conditions, obligations, and release requirements related thereto. \* \* \*

The signatory States waive their right for the duration of the compact to go back to the Supreme Court for modifications of the last cited decree under provisions of that decree which grant such a right.

Section 3.6 sets forth the general powers of the commission which may be used to carry out the purposes of the compact, including planning, construction, operation, research, data collection and forecasting, ground water investigations, information and reports, negotiation of loans, grants and aids, etc.

Section 3.7 authorizes the commission to make charges for the use of facilities which it may own or operate and for products and serv-

ices rendered by such facilities, exempt from any other public regulation or control. It should be noted that no power is delegated to the commission to make any charge with respect to navigation or on account of any withdrawal of water from the river in its natural state.

Section 3.8 is a screening section which enables the commission to test proposed projects which have a substantial effect on the water resources of the basin so that any future projects will conform to the comprehensive plan, or at least would not substantially impair or conflict with the plan. Judicial review is provided with respect to determinations under this section.

Articles 4 through 14 deal more specifically with the functions and operations of the commission. Article 4 authorizes the commission to engage in water supply projects, to provide for the storage and release of waters, and to provide stream regulation on a special assessment basis if and when there is special benefit, as distinguished from the general benefit, and the special benefit from such regulation is actually measurable.

Article 5 deals with pollution control. It empowers the commission to establish standards to control pollution and abate existing pollution and to enforce such standards subject to judicial review. The commission may also act as a complainant before established health departments and services of the signatory parties.

Article 6 deals with flood protection. It authorizes the commission to engage in works of flood damage reduction, and to prepare and adopt standards for flood plain zoning, the latter as a means of reducing the hazards to property owners as well as curtailing the need for public expenditures for flood control structures. The standards become effective upon their enactment by local governments exercising police power in the area.

Section 6.3 authorizes the acquisition of lands for flood control purposes and the posting of lands particularly subject to flood damage.

Article 7 deals generally with watershed management and authorizes the commission to promote sound practices of watershed management in the basin, including projects and facilities to retard runoff and to prevent soil erosion. Section 7.4 specifically directs that the commission shall cooperate with appropriate agencies of the signatory parties for the purposes of this article and shall not operate any project or facilities unless it has first found and determined that no other suitable unit or agency of government is available to do so.

Article 8 authorizes the commission to provide for the development of water-related public sports and recreational facilities. Under section 8.2 there is a similar cooperation requirement to that set forth above with respect to article 7.

Article 9 deals with hydroelectric power. The commission is authorized to develop hydroelectric power and hydroelectric energy in accordance with the comprehensive plan. It may provide transmission facilities only where such facilities are not otherwise available on reasonable terms for the purpose of wholesale marketing the power, and the compact specifically provides that nothing herein shall be construed to authorize the commission to engage in the business of direct sale to consumers. Under defined conditions, section 9.4 authorizes development contracts, and section 9.5 permits the commission to fix rates and charges for power which is produced by its facilities, provided that such shall be reasonable, nondiscriminatory,



and just. The article neither provides for nor forecloses the use of public power preference clauses in subsequent specific project authorizations.

Article 10 deals with withdrawals and diversions by private parties under conditions where a water shortage is threatened, or where the imbalance between demand and supply will impair or conflict with the requirements of the effectuation of the comprehensive plan. The article also provides machinery to deal with water emergencies, and for judicial review of all determinations of the commission under this article.

Article 11 sets forth the relationship between existing Federal agencies and existing State agencies to the new basin agency. It requires such existing agencies to cooperate in planning and to confine their activities within the framework of the comprehensive plan. Except for these limitations, each Federal agency otherwise authorized by law to plan, design, construct, operate, maintain any project or facility in or for the basin shall continue to have, exercise, and discharge such authority.

Section 11.3 recognizes that the basin agency has no taxing power, and each of the signatory parties reserves its sovereign rights of taxation as now existing. Section 11.4 requires the commission to establish uniform standards and procedures for the evaluation, determination of benefits, and cost allocations of the projects affecting the basin.

Article 12 deals with capital finance. It sets forth a complete system of revenue financing and provides that the commission shall have no power to pledge the credit of any signatory party, or of any county or municipality (sec. 12.3). It is recognized, of course, that the commission will be unable to enter the bond market unless and until it will establish a credit base to the extent of any revenue producing facilities it may operate. Section 12.20 provides that the signatory parties will provide capital funds with the understanding that—

nothing in this section shall be deemed to impose any mandatory obligation on any of the signatory parties other than such obligations as may be assumed by a signatory party in connection with specific project or facility.

Article 13 sets forth in detail the requirements of the comprehensive plan, water resources program, and annual current expense and capital budgets.

Article 14 contains general provisions which deal with the house-keeping functions of the commission, authorize the adoption of necessary rules and regulations, cover the taxability and exemption of property and functions of the commission. Section 14.14 of this article governs condemnation proceedings by the commission and section 14.15 the conveyance of lands and relocation of public facilities. Section 14.17 provides a standard penal sanction for violation of regulations of the commission and section 14.18 provides that the commission shall be responsible for claims arising out of the negligent acts or omissions of its officers, agents, or employees only to the extent and subject to the procedures prescribed by law generally with respect to all officers, agents, and employees of the Government of the United States. Section 14.19 provides that—

nothing contained in this compact shall be construed as affecting or intending to affect or in any way to interfere with the



law of the respective signatory parties relating to riparian rights.

The compact would take effect, under the provisions of section 14.22, when enacted by all of the signatory parties, and provision is made for its signing and attestation in a prescribed form.

Part 2 of the compact deals briefly with the mechanical provisions such as effective date, repealer, etc. It also assures the full access of the Congress and any of its committees to any books, papers, records, or documents belonging to the commission.

#### AGENCY REPORTS

The committee has received no reports from Federal agencies. In February when hearings were scheduled, interested Federal agencies were invited to testify. They requested a delay in order to develop a policy position on the legislation. Thereafter in April an "Administration Position Paper for Delaware Compact Conference" was distributed but was never submitted to the committee. The issues posed in that paper are dealt with in other portions of this report under the headings "Constitutional Questions" and "Why a Federal-Interstate Compact?"

## SUPPLEMENTAL VIEWS OF REPRESENTATIVE WILLIAM C. CRAMER

Although I am in agreement with the general principles of State compacts and would like to be able to support legislation for the creation of the Delaware River Basin compact, I must object to the present form of the resolution. In particular, I object to the provision for a Federal voting or participating representative on the administrative, operating, and policymaking commission created by the compact. This provision makes the Federal Government a fully participating partner on a mandatory basis in the compact and as such transforms the compact from an agreement between States to an agreement between States and the Federal Government. This makes the compact unique in the history of interstate compacts, compels the Federal Government to act in matters of State concern, and thus subjects the compact to serious policy and perhaps constitutional objections under article 1, section 10, clause 3 of the Constitution.

In considering whether the Federal Government should be a participating partner it should be pointed out that a study of 140 existing compacts approved by Congress reveals that neither voting nor non-voting members representing the Federal Government on the administrative and policymaking commissions is provided for in any of the compacts except one—the Potomac River compact (54 Stat. 748).

The arrangement involved in the Potomac River Basin compact to which the District of Columbia is a signatory is altogether different. Federal participation here is directed to matters primarily of local concern because of the U.S. exclusive jurisdiction within the District of Columbia.

Federal representation on an interstate commission such as that provided for by the Upper Colorado Basin compact (63 Stat. 31) is not comparable either. For there the States by compact have provided for an interstate commission on which the States have agreed that in view of the obvious national interest involved a representative of the United States may serve if the United States chooses. But neither the agreement nor the commission provided for is contingent upon such Federal participation and it is clear that by acceptance of the invitation for Federal representation to that commission the United States has not become a party to that compact.

The wisdom and possibly the constitutionality of such a radical departure from compact precedent, which will be established by the enactment of House Joint Resolution 225, is subject to grave question when it is realized that the powers of the State representatives can derive only from the reserve powers of the States and the powers of the Federal representatives must be grounded only on the delegated powers of the United States. A State cannot bargain away its reserved powers to the National Government, nor can the United States surrender its delegated powers to State control. Similarly, it would seem equally true that neither the States nor the United States can bargain away their respective types of power to a new kind of Federal-State creature.

The precedent established is of grave concern. Traditionally, Federal participation in compacts authorizing interstate action and planning is limited to advice and consideration. It is so limited to avoid constitutional questions and Federal interference with the actual internal administration of interstate compacts which are traditionally submitted to Congress principally to empower the States themselves to operate in an interstate cooperative manner.

In the 86th Congress, a similar bill, H.R. 12467, involving the northeast water and related land resources compact, was considered by the Committee on Public Works, and the report thereon, No. 1767, to which the minority, of which I was a member, filed minority views raising this same question. It was objected to by the executive departments, as appears in that report. Those departments generally raised principally the same questions: first, of the possible constitutional problems raised by Federal membership of the commission, and, secondly, the very questionable policy of providing for voting Federal membership on such a commission. Included among the objectors were the Federal Power Commission, the Departments of Health, Education, and Welfare, Interior, Agriculture, Justice, and the Army.

I believe it would be unwise to depart from prior precedent in the field of interstate compacts to the extent proposed in House Joint Resolution 225, and particularly in face of the departmental objections to the voting participation by the Federal Government on such interstate commissions, and, therefore, I must, to that extent, dissent from the recommendation of the majority.

Respectfully submitted.

WILLIAM C. CRAMER.





Union Calendar No. 100

87TH CONGRESS  
1ST SESSION

# H. J. RES. 225

[Report No. 310]

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 1961

Mr. WALTER introduced the following joint resolution; which was referred to the Committee on the Judiciary

APRIL 26, 1961

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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# JOINT RESOLUTION

To grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes.

1        *Resolved by the Senate and House of Representatives*  
2        *of the United States of America in Congress assembled,*  
3        That the consent of Congress is hereby given to the States  
4        of Delaware, New Jersey, and New York, and the Com-  
5        monwealth of Pennsylvania, for the compact known as the  
6        Delaware River Basin compact, and the United States of  
7        America hereby enters into such compact, in the form as  
8        follows:

1

## PART I

2

## COMPACT

3 Whereas the signatory parties recognize the water and re-  
4 lated resources of the Delaware basin as regional assets  
5 vested with local, state and national interests, for which  
6 they have a joint responsibility; and

7 Whereas the conservation, utilization, development, manage-  
8 ment and control of the water and related resources of  
9 the Delaware River Basin under a comprehensive multi-  
10 purpose plan will bring the greatest benefits and produce  
11 the most efficient service in the public welfare; and

12 Whereas such a comprehensive plan administered by a basin-  
13 wide agency will provide effective flood damage reduc-  
14 tion; conservation and development of ground and sur-  
15 face water supply for municipal, industrial and agricul-  
16 tural uses; development of recreational facilities in re-  
17 lation to reservoirs, lakes and streams; propagation of  
18 fish and game; promotion of related forestry, soil con-  
19 servation and watershed projects; protection and aid to  
20 fisheries dependent upon water resources; development  
21 of hydroelectric power potentialities; improved naviga-  
22 tion; control of the movement of salt water; abatement  
23 and control of stream pollution; and regulation of stream  
24 flows toward the attainment of these goals; and

25 Whereas decisions of the United States Supreme Court re-

1       lating to the waters of the basin have confirmed the  
2       interstate regional character of the water resources of the  
3       Delaware River Basin, and the United States Corps of  
4       Engineers has in a prior report on the Delaware River  
5       Basin (House Document 179, 73d Cong., 2nd Sess.)  
6       officially recognized the need for an interstate agency  
7       and the economies that can result from unified develop-  
8       ment and control of the water resources of the basin;  
9       and

10   Whereas the water resources of the basin are presently sub-  
11       ject to the duplicating, overlapping and uncoordinated  
12       administration of some 43 state agencies, 14 interstate  
13       agencies and 19 federal agencies which exercise a multi-  
14       plicity of powers and duties resulting in a splintering of  
15       authority and responsibilities; and

16   Whereas the joint advisory body known as the Interstate  
17       Commission on the Delaware River Basin (INCodel),  
18       created by the respective commissions or committee on  
19       Interstate Cooperation of the States of Delaware, New  
20       Jersey, New York and Pennsylvania, has on the basis  
21       of its extensive investigations, surveys and studies con-  
22       cluded that regional development of the Delaware River  
23       Basin is feasible, advisable and urgently needed; and has  
24       recommended that an interstate compact with federal  
25       participation be consummated to this end; and



1 Whereas the Congress of the United States and the executive  
2 branch of the government have recognized the national  
3 interest in the Delaware River Basin by authorizing  
4 and directing the Corps of Engineers, U.S. Department  
5 of the Army, to make a comprehensive survey and re-  
6 port on the water and related resources of the Delaware  
7 River Basin, enlisting the technical aid and planning  
8 participation of many federal, state and municipal agen-  
9 cies dealing with the waters of the basin, and in particu-  
10 lar the federal departments of Agriculture, Commerce,  
11 Health, Education and Welfare, Interior, and Federal  
12 Power Commission; and

13 Whereas some 22,000,000 people of the United States at  
14 present live and work in the region of the Delaware  
15 River Basin and its environs, and the government, em-  
16 ployment, industry and economic development of the  
17 entire region and the health, safety and general welfare  
18 of its population are and will continue to be vitally  
19 affected by the use, conservation, and management and  
20 control of the water and related resources of the Dela-  
21 ware River Basin; and

22 Whereas demands upon the waters and related resources of  
23 the basin are expected to mount rapidly because of the

1        anticipated increase in the population of the region pro-  
2        jected to reach 30,000,000 by 1980 and 40,000,000 by  
3        2010, and because of the anticipated increase in indus-  
4        trial growth projected to double by 1980; and

5    Whereas water resources planning and development is tech-  
6        nical, complex and expensive, and has often required  
7        fifteen to twenty years from the conception to the com-  
8        pletion of a large dam and reservoir; and

9    Whereas the public interest requires that facilities must be  
10       ready and operative when needed, to avoid the catas-  
11       trophe of unexpected floods or prolonged drought, and  
12       for other purposes; and

13   Whereas the Delaware River Basin Advisory Committee, a  
14       temporary body constituted by the governors of the  
15       four basin states and the mayors of the cities of New  
16       York and Philadelphia, has prepared a draft of an inter-  
17       state-federal compact for the creation of a basin agency,  
18       and the signatory parties desire to effectuate the pur-  
19       poses thereof; Now therefore

20       The states of Delaware, New Jersey and New York and  
21       the Commonwealth of Pennsylvania, and the United States  
22       of America hereby solemnly covenant and agree with each  
23       other, upon the enactment of concurrent legislation by the

1 Congress of the United States and by the respective state  
2 legislatures, having the same effect as this Part, as follows:

3 ARTICLE 1

4 SHORT TITLE, DEFINITIONS, PURPOSE AND LIMITATIONS

5 Section 1.1 Short Title. This act shall be known and  
6 may be cited as the Delaware River Basin Compact.

7 1.2 Definitions. For the purposes of this compact,  
8 and of any supplemental or concurring legislation enacted  
9 pursuant thereto, except as may be otherwise required by  
10 the context:

11 (a) "Basin" shall mean the area of drainage into the  
12 Delaware River and its tributaries, including Delaware Bay;

13 (b) "Commission" shall mean the Delaware River  
14 Basin Commission created and constituted by this compact;

15 (c) "Compact" shall mean Part I of this act;

16 (d) "Cost" shall mean direct and indirect expenditures,  
17 commitment, and net induced adverse effects, whether or  
18 not compensated for, used or incurred in connection with  
19 the establishment, acquisition, construction, maintenance and  
20 operation of a project;

21 (e) "Facility" shall mean any real or personal prop-  
22 erty, within or without the basin, and improvements thereof  
23 or thereon, and any and all rights of way, water, water  
24 rights, plants, structures, machinery and equipment, ac-  
25 quired, constructed, operated or maintained for the bene-



1 ficial use of water resources or related land uses including,  
2 without limiting the generality of the foregoing, any and all  
3 things and appurtenances necessary, useful or convenient for  
4 the control, collection, storage, withdrawal, diversion, re-  
5 lease, treatment, transmission, sale or exchange of water;  
6 or for navigation thereon, or the development and use of  
7 hydroelectric energy and power, and public recreational  
8 facilities; or the propagation of fish and wildlife; or to con-  
9 serve and protect the water resources of the basin or any  
10 existing or future water supply source, or to facilitate any  
11 other uses of any of them;

12 (f) "Federal government" shall mean the government  
13 of the United States of America, and any appropriate branch,  
14 department, bureau or division thereof, as the case may be;

15 (g) "Project" shall mean any work, service or activity  
16 which is separately planned, financed, or identified by the  
17 commission, or any separate facility undertaken or to be  
18 undertaken within a specified area, for the conservation, util-  
19 ization, control, development or management of water re-  
20 sources which can be established and utilized independently  
21 or as an addition to an existing facility, and can be con-  
22 sidered as a separate entity for purposes of evaluation;

23 (h) "Signatory party" shall mean a state or common-  
24 wealth party to this compact, and the federal government;

25 (i) "Water resources" shall include water and related

1 natural resources in, on, under, or above the ground, includ-  
2 ing related uses of land, which are subject to beneficial use,  
3 ownership or control.

4 1.3 Purpose and Findings. The legislative bodies of  
5 the respective signatory parties hereby find and declare:

6 (a) The water resources of the basin are affected with a  
7 local, state, regional and national interest and their planning,  
8 conservation, utilization, development, management and con-  
9 trol, under appropriate arrangements for intergovernmental  
10 cooperation, are public purposes of the respective signatory  
11 parties.

12 (b) The water resources of the basin are subject to the  
13 sovereign right and responsibility of the signatory parties,  
14 and it is the purpose of this compact to provide for a joint  
15 exercise of such powers of sovereignty in the common in-  
16 terests of the people of the region.

17 (c) The water resources of the basin are functionally  
18 inter-related, and the uses of these resources are interdepend-  
19 ent. A single administrative agency is therefore essential  
20 for effective and economical direction, supervision and coor-  
21 dination of efforts and programs of federal, state and local  
22 governments and of private enterprise.

23 (d) The water resources of the Delaware River Basin,  
24 if properly planned and utilized, are ample to meet all  
25 presently projected demands, including existing and added

1 diversions in future years and ever increasing economies  
2 and efficiencies in the use and reuse of water resources can  
3 be brought about by comprehensive planning, programming  
4 and management.

5 (e) In general, the purposes of this compact are to  
6 promote interstate comity; to remove causes of present and  
7 future controversy; to make secure and protect present de-  
8 velopments within the states; to encourage and provide for  
9 the planning, conservation, utilization, development, manage-  
10 ment and control of the water resources of the basin; to  
11 provide for cooperative planning and action by the signatory  
12 parties with respect to such water resources; and to apply  
13 the principle of equal and uniform treatment to all water  
14 users who are similarly situated and to all users of related  
15 facilities, without regard to established political boundaries.

16 1.4 Powers of Congress; Withdrawal. Nothing in  
17 this compact shall be construed to relinquish the functions,  
18 powers or duties of the Congress of the United States with  
19 respect to the control of any navigable waters within the  
20 basin, nor shall any provision hereof be construed in deroga-  
21 tion of any of the constitutional powers of the Congress to  
22 regulate commerce among the states and with foreign na-  
23 tions. The power and right of the Congress to withdraw  
24 the federal government as a party to this compact or to



1 revise or modify the terms, conditions and provisions under  
2 which it may remain a party by amendment, repeal or  
3 modification of any federal statute applicable thereto is  
4 recognized by the signatory parties.

5       1.5 Existing Agencies; Construction. It is the purpose  
6 of the signatory parties to preserve and utilize the functions,  
7 powers and duties of existing offices and agencies of gov-  
8 ernment to the extent not inconsistent with the compact,  
9 and the commission is authorized and directed to utilize  
10 and employ such offices and agencies for the purpose of this  
11 compact to the fullest extent it finds feasible and advan-  
12 tageous.

13       1.6 Duration of Compact.

14       (a) The duration of this compact shall be for an initial  
15 period of 100 years from its effective date, and it shall be  
16 continued for additional periods of 100 years if not later  
17 than 20 years nor sooner than 25 years prior to the termina-  
18 tion of the initial period or any succeeding period none of  
19 the signatory states, by authority of an act of its legislature,  
20 notifies the commission of intention to terminate the com-  
21 pact at the end of the then current 100 year period.

22       (b) In the event that this compact should be terminated  
23 by operation of paragraph (a) above, the commission shall  
24 be dissolved, its assets and liabilities transferred, and its cor-

1 porate affairs wound up, in such manner as may be provided  
2 by act of the Congress.

## 3 ARTICLE 2

### 4 ORGANIZATION AND AREA

5 Section 2.1 Commission Created. The Delaware River  
6 Basin Commission is hereby created as a body politic  
7 and corporate, with succession for the duration of this com-  
8 pact, as an agency and instrumentality of the governments of  
9 the respective signatory parties.

10 2.2 Commission Membership. The commission shall  
11 consist of the Governors of the signatory states, ex officio,  
12 and one commissioner to be appointed by the President of the  
13 United States to serve during the term of office of the  
14 President.

15 2.3 Alternates. Each member of the commission  
16 shall appoint an alternate to act in his place and stead, with  
17 authority to attend all meetings of the commission, and with  
18 power to vote in the absence of the member. Unless other-  
19 wise provided by law of the signatory party for which he is  
20 appointed, each alternate shall serve during the term of the  
21 member appointing him, subject to removal at the pleasure  
22 of the member. In the event of a vacancy in the office of  
23 alternate, it shall be filled in the same manner as an original  
24 appointment for the unexpired term only.

1       2.4 Compensation. Members of the commission and  
2 alternates shall serve without compensation but may be re-  
3 imbursed for necessary expenses incurred in and incident to  
4 the performance of their duties.

5       2.5 Voting Power. Each member shall be entitled to  
6 one vote on all matters which may come before the commis-  
7 sion. No action of the commission shall be taken at any  
8 meeting unless a majority of the membership shall vote in  
9 favor thereof.

10       2.6 Organization and Procedure. The commission  
11 shall provide for its own organization and procedure, and  
12 shall adopt rules and regulations governing its meetings and  
13 transactions. It shall organize annually by the election of a  
14 chairman and vice-chairman from among its members. It  
15 shall provide by its rules for the appointment by each mem-  
16 ber in his discretion of an advisor to serve without compensa-  
17 tion, who may attend all meetings of the commission and its  
18 committees.

19       2.7 Jurisdiction of the Commission. The commission  
20 shall have, exercise and discharge its functions, powers and  
21 duties within the limits of the basin, except that it may in its  
22 discretion act outside the basin whenever such action may be  
23 necessary or convenient to effectuate its powers or duties  
24 within the basin, or to sell or dispose of water, hydroelectric  
25 power or other water resources within or without the basin.



1 The commission shall exercise such power outside the basin  
2 only upon the consent of the state in which it proposes to  
3 act.

### 4 ARTICLE 3

#### 5 POWERS AND DUTIES OF THE COMMISSION

6 Section 3.1 Purpose and Policy. The commission shall  
7 develop and effectuate plans, policies and projects relating to  
8 the water resources of the basin. It shall adopt and promote  
9 uniform and coordinated policies for water conservation, con-  
10 trol, use and management in the basin. It shall encourage  
11 the planning, development and financing of water resources  
12 projects according to such plans and policies.

13 3.2 Comprehensive Plan, Program and Budgets. The  
14 commission shall, in accordance with Article 13 of this com-  
15 pact, formulate and adopt:

16 (a) A comprehensive plan, after consultation with water  
17 users and interested public bodies, for the immediate and  
18 long range development and uses of the water resources of  
19 the basin;

20 (b) A water resources program, based upon the com-  
21 prehensive plan, which shall include a systematic presenta-  
22 tion of the quantity and quality of water resources needs of  
23 the area to be served for such reasonably foreseeable period  
24 as the commission may determine, balanced by existing and  
25 proposed projects **required to satisfy** such needs, including

1 all public and private projects affecting the basin, together  
2 with a separate statement of the projects proposed to be  
3 undertaken by the commission during such period; and

4 (c) An annual current expense budget, and an annual  
5 capital budget consistent with the water resources program  
6 covering the commission's projects and facilities for the bud-  
7 get period.

8 3.3 Allocations, Diversions and Releases. The com-  
9 mission shall have the power from time to time as need  
10 appears, in accordance with the doctrine of equitable appor-  
11 tionment, to allocate the waters of the basin to and among  
12 the states signatory to this compact and to and among their  
13 respective political subdivisions, and to impose conditions,  
14 obligations and release requirements related thereto, subject  
15 to the following limitations:

16 (a) The commission, without the unanimous consent  
17 of the parties to the United States Supreme Court decree in  
18 New Jersey v. New York, 347 U.S. 995 (1954), shall not  
19 impair, diminish or otherwise adversely affect the diversions,  
20 compensating releases, rights, conditions, obligations, and  
21 provisions for the administration thereof as provided in said  
22 decree; provided, however, that after consultation with the  
23 river master under said decree the commission may find and  
24 declare a state of emergency resulting from a drought or  
25 catastrophe and it may thereupon by unanimous consent of

1 its members authorize and direct an increase or decrease in  
2 any allocation or diversion permitted or releases required by  
3 the decree, in such manner and for such limited time as may  
4 be necessary to meet such an emergency condition.

5 (b) No allocation of waters hereafter made pursuant to  
6 this section shall constitute a prior appropriation of the waters  
7 of the basin or confer any superiority of right in respect to the  
8 use of those waters, nor shall any such action be deemed to  
9 constitute an apportionment of the waters of the basin among  
10 the parties hereto; provided that this paragraph shall not be  
11 deemed to limit or restrict the power of the commission to  
12 enter into covenants with respect to water supply, with a dura-  
13 tion not exceeding the life of this compact, as it may deem  
14 necessary for the benefit or development of the water resources  
15 of the basin.

16 (c) Any proper party deeming itself aggrieved by action  
17 of the commission with respect to an out-of-basin diversion or  
18 compensating releases in connection therewith, notwithstand-  
19 ing the powers delegated to the commission by this compact  
20 may invoke the original jurisdiction of the United States Su-  
21 preme Court within one year after such action for an adjudica-  
22 tion and determination thereof de novo. Any other action of  
23 the commission pursuant to this section shall be subject to ju-  
24 dicial review in any court of competent jurisdiction.

25 3.4 Supreme Court Decree; Waivers. Each of the sig-



1 natory states and their respective political subdivisions, in con-  
2 sideration of like action by the others, and in recognition of  
3 reciprocal benefits, hereby waives and relinquishes any right,  
4 privilege or power it may have to apply for any modification  
5 of the terms of the decree of the United States Supreme  
6 Court in New Jersey v. New York, 347 U.S. 995 (1954)  
7 which would increase or decrease the diversions authorized  
8 or increase or decrease the releases required thereunder, ex-  
9 cept that a proceeding to modify such decree to increase  
10 diversions or compensating releases in connection with such  
11 increased diversions may be prosecuted by a proper party  
12 to effectuate rights, powers, duties and obligations under  
13 Section 3.3 of this compact, and except as may be required  
14 to effectuate the provisions of paragraphs III B 3 and V B  
15 of said decree.

16 3.5 Supreme Court Decree; Specific Limitations on  
17 Commission. Except as specifically provided in Sections  
18 3.3 and 3.4 of this article, nothing in this compact shall be  
19 construed in any way to impair, diminish or otherwise ad-  
20 versely affect the rights, powers, privileges, conditions and  
21 obligations contained in the decree of the United States  
22 Supreme Court in New Jersey v. New York, 347 U.S.  
23 995 (1954). To this end, and without limitation thereto,  
24 the commission shall not:

25 (a) Acquire, construct or operate any project or fa-

1 cility or make any order or take any action which would  
 2 impede or interfere with the rights, powers, privileges, con-  
 3 ditions or obligations contained in said decree;

4 (b) Impose or collect any fee, charge or assessment  
 5 with respect to diversions of waters of the basin permitted  
 6 by said decree;

7 (c) Exercise any jurisdiction, except upon consent of  
 8 all the parties to said decree, over the planning, design,  
 9 construction, operation or control of any projects, struc-  
 10 tures or facilities constructed or used in connection with  
 11 withdrawals, diversions and releases of waters of the basin  
 12 authorized by said decree or of the withdrawal, diversions  
 13 or releases to be made thereunder; or

14 (d) Serve as river master under said decree, except  
 15 upon consent of all the parties thereto.

16 3.6 General Powers. The commission may:

17 (a) Plan, design, acquire, construct, reconstruct, com-  
 18 plete, own, improve, extend, develop, operate and maintain  
 19 any and all projects, facilities, properties, activities and serv-  
 20 ices, determined by the commission to be necessary, con-  
 21 venient or useful for the purposes of this compact;

22 (b) Establish standards of planning, design and opera-  
 23 tion of all projects and facilities in the basin which affect  
 24 its water resources, including without limitation thereto

1 water and waste treatment plants, stream and lake recrea-  
2 tional facilities, trunk mains for water distribution, local flood  
3 protection works, small watershed management programs,  
4 and ground water recharging operations;

5 (c) Conduct and sponsor research on water resources,  
6 their planning, use, conservation, management, development,  
7 control and protection, and the capacity, adaptability and  
8 best utility of each facility thereof, and collect, compile, cor-  
9 relate, analyze, report and interpret data on water resources  
10 and uses in the basin, including without limitation thereto  
11 the relation of water to other resources, industrial water  
12 technology, ground water movement, relation between water  
13 price and water demand, and general hydrological condi-  
14 tions;

15 (d) Compile and coordinate systematic stream stage  
16 and ground water level forecasting data, and publicize such  
17 information when and as needed for water uses, flood warn-  
18 ing, quality maintenance or other purposes;

19 (e) Conduct such special ground water investigations,  
20 tests, and operations and compile such data relating thereto  
21 as may be required to formulate and administer the compre-  
22 hensive plan;

23 (f) Prepare, publish and disseminate information and  
24 reports with respect to the water problems of the basin and  
25 for the presentation of the needs, resources and policies of



1 the basin to executive and legislative branches of the signa-  
2 tory parties;

3 (g) Negotiate for such loans, grants, services or other  
4 aids as may be lawfully available from public or private  
5 sources to finance or assist in effectuating any of the purposes  
6 of this compact; and to receive and accept such aid upon  
7 such terms and conditions, and subject to such provisions  
8 for repayment as may be required by federal or state law or  
9 as the commission may deem necessary or desirable;

10 (h) Exercise such other and different powers as may be  
11 delegated to it by this compact or otherwise pursuant to law,  
12 and have and exercise all powers necessary or convenient to  
13 carry out its express powers or which may be reasonably  
14 implied therefrom.

15 3.7 Rates and Charges. The commission may from  
16 time to time after public notice and hearing fix, alter and  
17 revise rates, rentals, charges and tolls and classifications  
18 thereof, for the use of facilities which it may own or operate  
19 and for products and services rendered thereby, without  
20 regulation or control by any department, office or agency  
21 of any signatory party.

22 3.8 Referral and Review. No project having a sub-  
23 stantial effect on the water resources of the basin shall here-  
24 after be undertaken by any person, corporation or govern-  
25 mental authority unless it shall have been first submitted to

1 and approved by the commission, subject to the provisions  
2 of Sections 3.3 and 3.5. The commission shall approve a  
3 project whenever it finds and determines that such project  
4 would not substantially impair or conflict with the compre-  
5 hensive plan and may modify and approve as modified, or  
6 may disapprove any such project whenever it finds and  
7 determines that the project would substantially impair or  
8 conflict with such plan. The commission shall provide by  
9 regulation for the procedure of submission, review and con-  
10 sideration of projects, and for its determinations pursuant  
11 to this section. Any determination of the commission here-  
12 under shall be subject to judicial review in any court of  
13 competent jurisdiction.

14 3.9 Coordination and Cooperation. The commission  
15 shall promote and aid the coordination of the activities and  
16 programs of federal, state, municipal and private agencies  
17 concerned with water resources administration in the basin.  
18 To this end, but without limitation thereto, the commission  
19 may:

20 (a) Advise, consult, contract, financially assist, or other-  
21 wise cooperate with any and all such agencies;

22 (b) Employ any other agency or instrumentality of any  
23 of the signatory parties or of any political subdivision thereof,  
24 in the design, construction, operation and maintenance of

1 structures, and the installation and management of river con-  
2 trol systems, or for any other purpose;

3 (c) Develop and adopt plans and specifications for par-  
4 ticular water resources projects and facilities which so far as  
5 consistent with the comprehensive plan incorporate any sep-  
6 arate plans of other public and private organizations operat-  
7 ing in the basin, and permit the decentralized administration  
8 thereof;

9 (d) Qualify as a sponsoring agency under any federal  
10 legislation heretofore or hereafter enacted to provide finan-  
11 cial or other assistance for the planning, conservation, utili-  
12 zation, development, management or control of water  
13 resources.

14 3.10 Advisory Committees. The commission may con-  
15 stitute and empower advisory committees, which may be  
16 comprised of representatives of the public and of federal,  
17 state, county and municipal governments, water resources  
18 agencies, water-using industries, water-interest groups, labor  
19 and agriculture.

## 20 ARTICLE 4

### 21 WATER SUPPLY

22 Section 4.1 Generally. The commission shall have  
23 power to develop, implement and effectuate plans and proj-  
24 ects for the use of the waters of the basin for domestic,



1 municipal, agricultural and industrial water supply. To this  
2 end, without limitation thereto, it may provide for, construct,  
3 acquire, operate and maintain dams, reservoirs and other  
4 facilities for utilization of surface and ground water resources,  
5 and all related structures, appurtenances and equipment on  
6 the river and its tributaries and at such off-river sites as it  
7 may find appropriate, and may regulate and control the use  
8 thereof.

9       4.2 Storage and Release of Waters.

10       (a) The commission shall have power to acquire, oper-  
11 ate and control projects and facilities for the storage and  
12 release of waters, for the regulation of flows and supplies of  
13 surface and ground waters of the basin, for the protection  
14 of public health, stream quality control, economic develop-  
15 ment, improvement of fisheries, recreation, dilution and  
16 abatement of pollution, the prevention of undue salinity and  
17 other purposes.

18       (b) No signatory party shall permit any augmentation  
19 of flow to be diminished by the diversion of any water of  
20 the basin during any period in which waters are being re-  
21 leased from storage under the direction of the commission  
22 for the purpose of augmenting such flow, except in cases

1 where such diversion is duly authorized by this compact,  
2 or by the commission pursuant thereto, or by the judgment,  
3 order or decree of a court of competent jurisdiction.

4       4.3 Assessable Improvements. The commission may  
5 undertake to provide stream regulation in the main stream  
6 or any tributary in the basin and may assess on an annual  
7 basis or otherwise the cost thereof upon water users or any  
8 classification of them specially benefited thereby to a meas-  
9 urable extent, provided that no such assessment shall exceed  
10 the actual benefit to any water user. Any such assessment  
11 shall follow the procedure prescribed by law for local im-  
12 provement assessments and shall be subject to judicial review  
13 in any court of competent jurisdiction.

14       4.4 Coordination. Prior to entering upon the execu-  
15 tion of any project authorized by this article, the commission  
16 shall review and consider all existing rights, plans and pro-  
17 grams of the signatory parties, their political subdivisions,  
18 private parties, and water users which are pertinent to such  
19 project, and shall hold a public hearing on each proposed  
20 project.

21       4.5 Additional Powers. In connection with any proj-  
22 ect authorized by this article, the commission shall have

1 power to provide storage, treatment, pumping and transmis-  
2 sion facilities, but nothing herein shall be construed to au-  
3 thorize the commission to engage in the business of distribut-  
4 ing water.

## 5 ARTICLE 5

### 6 POLLUTION CONTROL

7 Section 5.1 General Powers. The commission may  
8 undertake investigations and surveys, and acquire, construct  
9 operate and maintain projects and facilities to control poten-  
10 tial pollution and abate or dilute existing pollution of the  
11 water resources of the basin. It may invoke as complainant  
12 the power and jurisdiction of water pollution abatement agen-  
13 cies of the signatory parties.

14 5.2 Policy and Standards. The commission may as-  
15 sume jurisdiction to control future pollution and abate ex-  
16 isting pollution in the waters of the basin, whenever it de-  
17 termines after investigation and public hearing upon due  
18 notice that the effectuation of the comprehensive plan so  
19 requires. The standard of such control shall be that pollu-  
20 tion by sewage or industrial or other waste originating within  
21 a signatory state shall not injuriously affect waters of the  
22 basin as contemplated by the comprehensive plan. The  
23 commission, after such public hearing may classify the waters  
24 of the basin and establish standards of treatment of sewage,  
25 industrial or other waste, according to such classes including



1 allowance for the variable factors of surface and ground  
2 waters, such as size of the stream, flow, movement, location,  
3 character, self-purification, and usage of the waters affected.  
4 After such investigation, notice and hearing the commission  
5 may adopt and from time to time amend and repeal rules,  
6 regulations and standards to control such future pollution  
7 and abate existing pollution, and to require such treatment  
8 of sewage, industrial or other waste within a time reason-  
9 able for the construction of the necessary works, as may be  
10 required to protect the public health or to preserve the  
11 waters of the basin for uses in accordance with the compre-  
12 hensive plan.

13       5.3 Cooperative Legislation and Administration. Each  
14 of the signatory parties covenants and agrees to prohibit  
15 and control pollution of the waters of the basin according  
16 to the requirements of this compact and to cooperate faith-  
17 fully in the control of future pollution in and abatement of  
18 existing pollution from the rivers, streams, and waters in the  
19 basin which flow through, under, into or border upon any of  
20 such signatory states, and in order to effect such object,  
21 agrees to enact any necessary legislation to enable each such  
22 party to place and maintain the waters of said basin in a  
23 satisfactory condition, available for safe and satisfactory use  
24 as public and industrial water supplies after reasonable

1 treatment, suitable for recreational usage, capable of main-  
2 taining fish and other aquatic life, free from unsightly or  
3 malodorous nuisances due to floating solids or sludge deposits  
4 and adaptable to such other uses as may be provided by the  
5 comprehensive plan.

6       5.4 Enforcement. The commission may, after investi-  
7 gation and hearing, issue an order or orders upon any person  
8 or public or private corporation, or other entity, to cease  
9 the discharge of sewage, industrial or other waste into waters  
10 of the basin which it determines to be in violation of such  
11 rules and regulations as it shall have adopted for the pre-  
12 vention and abatement of pollution. Any such order or  
13 orders may prescribe the date, including a reasonable time  
14 for the construction of any necessary works, on or before  
15 which such discharge shall be wholly or partially discon-  
16 tinued, modified or treated, or otherwise conformed to the  
17 requirements of such rules and regulations. Such order shall  
18 be reviewable in any court of competent jurisdiction. The  
19 courts of the signatory parties shall have jurisdiction to en-  
20 force against any person, public or private corporation, or  
21 other entity, any and all provisions of this Article or of any  
22 such order. The commission may bring an action in its own  
23 name in any such court of competent jurisdiction to compel  
24 compliance with any provision of this Article, or any rule

1 or regulation issued pursuant thereto or of any such order,  
2 according to the practice and procedure of the court.

3 5.5 Further Jurisdiction. Nothing in this compact shall  
4 be construed to repeal, modify or qualify the authority of  
5 any signatory party to enact any legislation or enforce any  
6 additional conditions and restrictions to lessen or prevent  
7 the pollution of waters within its jurisdiction.

## 8 ARTICLE 6

### 9 FLOOD PROTECTION

10 Section 6.1 General Powers. The commission may  
11 plan, design, construct and operate and maintain projects  
12 and facilities, as it may deem necessary or desirable for  
13 flood damage reduction. It shall have power to operate such  
14 facilities and to store and release waters on the Delaware  
15 River and its tributaries and elsewhere within the basin, in  
16 such manner, at such times, and under such regulations as  
17 the commission may deem appropriate to meet flood condi-  
18 tions as they may arise.

#### 19 6.2 Flood Plain Zoning.

20 (a) The commission shall have power to adopt, amend  
21 and repeal recommended standards, in the manner provided  
22 by this section, relating to the nature and extent of the uses  
23 of land in areas subject to flooding by waters of the Delaware  
24 River and its tributaries. Such standards shall not be



1 deemed to impair or restrict the power of the signatory par-  
2 ties or their political subdivisions to adopt zoning and other  
3 land use regulations not inconsistent therewith.

4 (b) The commission may study and determine the na-  
5 ture and extent of the flood plains of the Delaware River and  
6 its tributaries. Upon the basis of such studies, it may es-  
7 tablish encroachment lines and delineate the areas subject to  
8 flood, including a classification of lands with reference to  
9 relative risk of flood and the establishment of standards for  
10 flood plain use which will safeguard the public health, safety  
11 and property. Prior to the adoption of any standards de-  
12 lineating such area or defining such use, the commission shall  
13 hold public hearings, in the manner provided by Article 14,  
14 with respect to the substance of such standards. At or be-  
15 fore such public hearings the proposed standards shall be  
16 available, and all interested persons shall be given an oppor-  
17 tunity to be heard thereon at the hearing. Upon the adop-  
18 tion and promulgation of such standards, the commission  
19 may enter into agreements to provide technical and financial  
20 aid to any municipal corporation for the administration and  
21 enforcement of any local land use ordinances or regulations  
22 giving effect to such standards.

23 6.3 Flood Lands Acquisition. The commission shall  
24 have power to acquire the fee or any lesser interest in lands

1 and improvements thereon within the area of a flood plain  
2 for the purpose of restricting the use of such property so  
3 as to minimize the flood hazard, converting property to uses  
4 appropriate to flood plain conditions, or preventing unwar-  
5 ranted constrictions that reduce the ability of the river chan-  
6 nel to carry flood water. Any such action shall be in accord  
7 with the standards adopted and promulgated pursuant to  
8 Section 6.2.

#### 9 6.4 Flood and Stream Stage Warnings and Posting.

10 The commission may cause lands particularly subject to flood  
11 to be posted with flood hazard warnings, and may from time  
12 to time cause flood advisory notices to be published and cir-  
13 culated as conditions may warrant.

### 14 ARTICLE 7

#### 15 WATERSHED MANAGEMENT

16 Section 7.1 Watersheds Generally. The commission  
17 shall promote sound practices of watershed management in  
18 the basin, including projects and facilities to retard runoff  
19 and waterflow and prevent soil erosion.

20 7.2 Soil Conservation and Forestry. The commission  
21 may acquire, sponsor or operate facilities and projects to  
22 encourage soil conservation, prevent and control erosion, and  
23 to promote land reclamation and sound forestry practices.

24 7.3 Fish and Wildlife. The commission may acquire,

1 sponsor or operate projects and facilities for the maintenance  
2 and improvement of fish and wildlife habitats related to  
3 the water resources of the basin.

#### 4 7.4 Cooperative Planning and Operation.

5 (a) The commission shall cooperate with the appro-  
6 priate agencies of the signatory parties and with other  
7 public and private agencies in the planning and effectua-  
8 tion of a coordinated program of facilities and projects  
9 authorized by this Article.

10 (b) The commission shall not operate any such project  
11 or facility unless it has first found and determined that no  
12 other suitable unit or agency of government is available to  
13 operate the same upon reasonable conditions, in accordance  
14 with the intent and purpose expressed in Section 1.5 of this  
15 compact.

### 16 ARTICLE 8

#### 17 RECREATION

18 Section 8.1 Development. The commission shall pro-  
19 vide for the development of water related public sports and  
20 recreational facilities. The commission on its own account  
21 or in cooperation with a signatory party, political subdivi-  
22 sion or any agency thereof, may provide for the construction,  
23 maintenance and administration of such facilities, subject to  
24 the provisions of Section 8.2 hereof.

#### 25 8.2 Cooperative Planning and Operation.



1       (a) The commission shall cooperate with the appro-  
2 priate agencies of the signatory parties and with other public  
3 and private agencies in the planning and effectuation of a  
4 coordinated program of facilities and projects authorized by  
5 this article.

6       (b) The commission shall not operate any such project  
7 or facility unless it has first found and determined that no  
8 other suitable unit or agency of government is available to  
9 operate the same upon reasonable conditions, in accordance  
10 with the intent and purpose expressed in Section 1.5 of this  
11 compact.

12       8.3 Operation and Maintenance. The commission,  
13 within limits prescribed by this article, shall:

14       (a) Encourage activities of other public agencies having  
15 water related recreational interests and assist in the coordina-  
16 tion thereof;

17       (b) Recommend standards for the development and  
18 administration of water related recreational facilities;

19       (c) Provide for the administration, operation and main-  
20 tenance of recreational facilities owned or controlled by the  
21 commission and for the letting and supervision of private  
22 concessions in accordance with this article.

23       8.4 Concessions. The commission shall after notice and  
24 public hearing provide by regulation for the award of con-  
25 tracts for private concessions in connection with recreational

1 facilities, including any renewal or extension thereof, upon  
2 sealed competitive bids after public advertisement therefor.

### 3 ARTICLE 9

#### 4 HYDROELECTRIC POWER

5 Section 9.1 Development. The waters of the Dela-  
6 ware River and its tributaries may be impounded and used  
7 by or under authority of the commission for the generation  
8 of hydroelectric power and hydroelectric energy, in accord-  
9 ance with the comprehensive plan.

10 9.2 Power Generation. The commission may develop  
11 and operate, or authorize to be developed and operated,  
12 dams and related facilities and appurtenances for the purpose  
13 of generating hydroelectric power and hydroelectric energy.

14 9.3 Transmission. The commission may provide facil-  
15 ities for the transmission of hydroelectric power and hydro-  
16 electric energy produced by it where such facilities are not  
17 otherwise available upon reasonable terms, for the purpose  
18 of wholesale marketing of power and nothing herein shall  
19 be construed to authorize the commission to engage in the  
20 business of direct sale to consumers.

21 9.4 Development Contracts. The Commission may  
22 after public notice and hearing enter into contracts on rea-  
23 sonable terms, consideration and duration under which  
24 public utilities or public agencies may develop hydroelectric

1 power and hydroelectric energy through the use of dams,  
2 related facilities and appurtenances.

3       9.5 Rates and Charges. Rates and charges fixed by  
4 the commission for power which is produced by its facilities  
5 shall be reasonable, nondiscriminatory, and just.

## 6                   ARTICLE 10

### 7       REGULATION OF WITHDRAWALS AND DIVERSIONS

8       Section 10.1 Power of Regulation. The commission  
9 may regulate and control withdrawals and diversions from  
10 surface waters and ground waters of the basin, as provided  
11 by this article. The commission may enter into agreements  
12 with the signatory parties relating to the exercises of such  
13 power of regulation or control and may delegate to any of  
14 them such powers of the commission as it may deem neces-  
15 sary or desirable.

16       10.2 Determination of Protected Areas. The com-  
17 mission may from time to time after public hearing upon due  
18 notice determine and delineate such areas within the basin  
19 wherein the demands upon supply made by water users have  
20 developed or threaten to develop to such a degree as to create  
21 a water shortage or to impair or conflict with the require-  
22 ments or effectuation of the comprehensive plan, and any  
23 such areas may be designated as "protected areas." The



1 commission, whenever it determines that such shortage no  
2 longer exists, shall terminate the protected status of such  
3 area and shall give public notice of such termination.

4       10.3 Withdrawal Permits. In any protected areas so  
5 determined and delineated, no person, firm, corporation or  
6 other entity shall divert or withdraw water for domestic, mu-  
7 nicipal, agricultural or industrial uses in excess of such quan-  
8 tities as the commission may prescribe by general regulation,  
9 except (i) pursuant to a permit granted under this article,  
10 or (ii) pursuant to a permit or approval heretofore granted  
11 under the laws of any of the signatory states.

12       10.4 Emergency. In the event of a drought or other  
13 condition which may cause an actual and immediate short-  
14 age of available water supply within the basin, or within any  
15 part thereof, the commission may, after public hearing, de-  
16 termine and delineate the area of such shortage and declare  
17 a water supply emergency therein. For the duration of such  
18 emergency as determined by the commission no person, firm,  
19 corporation or other public or private entity shall divert or  
20 withdraw water for any purpose, in excess of such quantities  
21 as the commission may prescribe by general regulation or  
22 authorize by special permit granted hereunder.

23       10.5 Standards. Permits shall be granted, modified or  
24 denied as the case may be so as to avoid such depletion of

1 the natural stream flows and ground waters in the protected  
2 area or in an emergency area as will adversely affect the  
3 comprehensive plan or the just and equitable interests and  
4 rights of other lawful users of the same source, giving due  
5 regard to the need to balance and reconcile alternative and  
6 conflicting uses in the event of an actual or threatened short-  
7 age of water of the quality required.

8 10.6 Judicial Review. The determinations and de-  
9 lineations of the commission pursuant to Section 10.2 and  
10 the granting, modification or denial of permits pursuant to  
11 Section 10.3 through 10.5 shall be subject to judicial review  
12 in any court of competent jurisdiction.

13 10.7 Maintenance of Records. Each state shall pro-  
14 vide for the maintenance and preservation of such records  
15 of authorized diversions and withdrawals and the annual  
16 volume thereof as the commission shall prescribe. Such  
17 records and supplementary reports shall be furnished to the  
18 commission at its request.

19 10.8 Existing State Systems. Whenever the commis-  
20 sion finds it necessary or desirable to exercise the powers  
21 conferred by this article any diversion or withdrawal per-  
22 mits authorized or issued under the laws of any of the signa-  
23 tory states shall be superseded to the extent of any conflict  
24 with the control and regulation exercised by the commission.

## ARTICLE 11

## INTERGOVERNMENTAL RELATIONS

Section 11.1 Federal Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern federal projects affecting the water resources of the basin, subject in each case to the provisions of Section 1.4 of this compact:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the commission in the comprehensive plan;

(c) Each federal agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section.

11.2 State and Local Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern projects



1 of the signatory states, their political subdivisions and public  
2 corporations affecting water resources of the basin:

3 (a) The planning of all projects related to powers dele-  
4 gated to the commission by this compact shall be undertaken  
5 in consultation with the commission;

6 (b) No expenditure or commitment shall be made for  
7 or on account of the construction, acquisition or operation of  
8 any project or facility unless it shall have first been included  
9 by the commission in the comprehensive plan;

10 (c) Each state and local agency otherwise authorized  
11 by law to plan, design, construct, operate or maintain any  
12 project or facility in or for the basin shall continue to have,  
13 exercise and discharge such authority, except as specifically  
14 provided by this section.

15 11.3 Reserved Taxing Powers of States. Each of the  
16 signatory parties reserves the right to levy, assess and col-  
17 lect fees, charges and taxes on or measured by the withdrawal  
18 or diversion of waters of the basin for use within the juris-  
19 dictions of the respective signatory parties.

20 11.4 Project Costs and Evaluation Standards. The  
21 commission shall establish uniform standards and procedures  
22 for the evaluation, determination of benefits, and cost alloca-  
23 tions of projects affecting the basin, and for the determina-  
24 tion of project priorities, pursuant to the requirements of the

1 comprehensive plan and its water resources program. The  
2 commission shall develop equitable cost sharing and reim-  
3 bursement formulas for the signatory parties including:

4 (a) Uniform and consistent procedures for the allocation  
5 of project costs among purposes included in multiple-pur-  
6 pose programs;

7 (b) Contracts and arrangements for sharing financial  
8 responsibility among and with signatory parties, public  
9 bodies, groups and private enterprise, and for the supervision  
10 of their performance;

11 (c) Establishment and supervision of a system of ac-  
12 counts for reimbursable purposes and directing the payments  
13 and charges to be made from such accounts;

14 (d) Determining the basis and apportioning amounts  
15 (i) of reimbursable revenues to be paid signatory parties or  
16 their political subdivisions, and (ii) of payments in lieu of  
17 taxes to any of them.

18 11.5 Cooperative Services. The commission shall  
19 furnish technical services, advice and consultation to author-  
20 ized agencies of the signatory parties with respect to the  
21 water resources of the basin, and each of the signatory  
22 parties pledges itself to provide technical and administrative  
23 services to the commission upon request, within the limits  
24 of available appropriations and to cooperate generally with  
25 the commission for the purposes of this compact, and the

1 cost of such services may be reimbursable whenever the  
2 parties deem appropriate.

## 3 ARTICLE 12

### 4 CAPITAL FINANCING

5 Section 12.1 Borrowing Power. The commission may  
6 borrow money for any of the purposes of this compact, and  
7 may issue its negotiable bonds and other evidences of in-  
8 debtedness in respect thereto. All such bonds and evidences  
9 of indebtedness shall be payable solely out of the properties  
10 and revenues of the commission without recourse to taxation.  
11 The bonds and other obligations of the commission, except as  
12 may be otherwise provided in the indenture under which  
13 they were issued, shall be direct and general obligations of  
14 the commission and the full faith and credit of the commis-  
15 sion are hereby pledged for the prompt payment of the debt  
16 service thereon and for the fulfillment of all other undertak-  
17 ings of the commission assumed by it to or for the benefit  
18 of the holders thereof.

19 12.2 Funds and Expenses. The purposes of this com-  
20 pact shall include without limitation thereto all costs of any  
21 project or facility or any part thereof, including interest dur-  
22 ing a period of construction and a reasonable time thereafter  
23 and any incidental expenses (legal, engineering, fiscal, finan-  
24 cial consultant and other expenses) connected with issuing  
25 and disposing of the bonds; all amounts required for the



1 creation of an operating fund, construction fund, reserve  
2 fund, sinking fund, or other special fund; all other expenses  
3 connected with the planning, design, acquisition, construc-  
4 tion, completion, improvement or reconstruction of any  
5 facility or any part thereof; and reimbursement of advances  
6 by the commission or by others for such purposes and for  
7 working capital.

8       12.3 Credit Excluded; Officers, State and Municipal.

9 The commission shall have no power to pledge the credit of  
10 any signatory party, or of any county or municipality, or  
11 to impose any obligation for payment of the bonds upon any  
12 signatory party or any county or municipality. Neither  
13 the commissioners nor any person executing the bonds  
14 shall be liable personally on the bonds of the commission  
15 or be subject to any personal liability or accountability by  
16 reason of the issuance thereof.

17       12.4 Funding and Refunding. Whenever the commis-  
18 sion deems it expedient, it may fund and refund its bonds  
19 and other obligations whether or not such bonds and obliga-  
20 tions have matured. It may provide for the issuance, sale  
21 or exchange of refunding bonds for the purpose of redeem-  
22 ing or retiring any bonds (including the payment of any  
23 premium, duplicate interest or cash adjustment required in  
24 connection therewith) issued by the commission or issued  
25 by any other issuing body, the proceeds of the sale of which

1 have been applied to any facility acquired by the commission  
2 or which are payable out of the revenues of any facility  
3 acquired by the commission. Bonds may be issued partly  
4 to refund bonds and other obligations then outstanding, and  
5 partly for any other purpose of the commission. All pro-  
6 visions of this compact applicable to the issuance of bonds  
7 are applicable to refunding bonds and to the issuance, sale or  
8 exchange thereof.

9       12.5 Bonds; Authorization Generally. Bonds and  
10 other indebtedness of the commission shall be authorized by  
11 resolution of the commission. The validity of the authoriza-  
12 tion and issuance of any bonds by the commission shall not  
13 be dependent upon nor affected in any way by: (i) the  
14 disposition of bond proceeds by the commission or by con-  
15 tract, commitment or action taken with respect to such pro-  
16 ceeds; or (ii) the failure to complete any part of the project  
17 for which bonds are authorized to be issued. The commis-  
18 sion may issue bonds in one or more series and may provide  
19 for one or more consolidated bond issues, in such principal  
20 amounts and with such terms and provisions as the commis-  
21 sion may deem necessary. The bonds may be secured by  
22 a pledge of all or any part of the property, revenues and  
23 franchises under its control. Bonds may be issued by the  
24 commission in such amount, with such maturities and in  
25 such denominations and form or forms, whether coupon or

1 registered, as to both principal and interest, as may be de-  
2 termined by the commission. The commission may provide  
3 for redemption of bonds prior to maturity on such notice  
4 and at such time or times and with such redemption pro-  
5 visions, including premiums, as the commission may  
6 determine.

7       12.6 Bonds; Resolutions and Indentures Generally.  
8 The commission may determine and enter into indentures  
9 providing for the principal amount, date or dates, maturities,  
10 interest rate, denominations, form, registration, transfer,  
11 interchange and other provisions of the bonds and coupons  
12 and the terms and conditions upon which the same shall be  
13 executed, issued, secured, sold, paid, redeemed, funded and  
14 refunded. The resolution of the commission authorizing any  
15 bond or any indenture so authorized under which the bonds  
16 are issued may include all such covenants and other pro-  
17 visions other than any restriction on the regulatory powers  
18 vested in the commission by this compact as the commission  
19 may deem necessary or desirable for the issue, payment,  
20 security, protection or marketing of the bonds, including  
21 without limitation covenants and other provisions as to the  
22 rates or amounts of fees, rents and other charges to be  
23 charged or made for use of the facilities; the use, pledge,  
24 custody, securing, application and disposition of such rev-



1 enues, of the proceeds of the bonds, and of any other moneys  
2 of the commission; the operation, maintenance, repair and  
3 reconstruction of the facilities and the amounts which may be  
4 expended therefor; the sale, lease or other disposition of the  
5 facilities; the insuring of the facilities and of the revenues  
6 derived therefrom; the construction or other acquisition of  
7 other facilities; the issuance of additional bonds or other in-  
8 debtedness; the rights of the bondholders and of any trustee  
9 for the bondholders upon default by the commission or other-  
10 wise; and the modification of the provisions of the indenture  
11 and of the bonds. Reference on the face of the bonds to such  
12 resolution or indenture by its date of adoption or the ap-  
13 parent date on the face thereof is sufficient to incorporate all  
14 of the provisions thereof and of this compact into the body  
15 of the bonds and their appurtenant coupons. Each taker  
16 and subsequent holder of the bonds or coupons, whether the  
17 coupons are attached to or detached from the bonds, has re-  
18 course to all of the provisions of the indenture and of this  
19 compact and is bound thereby.

20 12.7 Maximum Maturity. No bond or its terms shall  
21 mature in more than fifty years from its own date and in the  
22 event any authorized issue is divided into two or more series  
23 or divisions, the maximum maturity date herein authorized  
24 shall be calculated from the date on the face of each bond

1 separately, irrespective of the fact that different dates may be  
2 prescribed for the bonds of each separate series or division of  
3 any authorized issue.

4 12.8 Tax Exemption. All bonds issued by the com-  
5 mission under the provisions of this compact and the interest  
6 thereof shall at all times be free and exempt from all taxation  
7 by or under authority of any of the signatory parties, except  
8 for transfer, inheritance and estate taxes.

9 12.9 Interest. Bonds shall bear interest at a rate of  
10 not to exceed six percent per annum, payable annually or  
11 semi-annually.

12 12.10 Place of Payment. The commission may pro-  
13 vide for the payment of the principal and interest of bonds  
14 at any place or places within or without the signatory states,  
15 and in any specified lawful coin or currency of the United  
16 States of America.

17 12.11 Execution. The commission may provide for  
18 the execution and authentication of bonds by the manual,  
19 lithographed or printed facsimile signature of officers of the  
20 commission, and by additional authentication by a trustee or  
21 fiscal agent appointed by the commission. If any of the  
22 officers whose signatures or counter signatures appear upon  
23 the bonds or coupons cease to be officers before the delivery  
24 of the bonds or coupons, their signatures or counter signa-  
25 tures are nevertheless valid and of the same force and effect

1 as if the officers had remained in office until the delivery of  
2 the bonds and coupons.

3 12.12 Holding Own Bonds. The commission shall  
4 have power out of any funds available therefor to purchase  
5 its bonds and may hold, cancel or resell such bonds.

6 12.13 Sale. The commission may fix terms and con-  
7 ditions for the sale or other disposition of any authorized  
8 issue of bonds. The commission may sell bonds at less than  
9 their par or face value but no issue of bonds may be sold at  
10 an aggregate price below the par or face value thereof if  
11 such sale would result in a net interest cost to the commis-  
12 sion calculated upon the entire issue so sold of more than  
13 six percent per annum payable semi-annually, according to  
14 standard tables of bond values. All bonds issued and sold for  
15 cash pursuant to this act shall be sold on sealed proposals to  
16 the highest bidder. Prior to such sale, the commission shall  
17 advertise for bids by publication of a notice of sale not less  
18 than ten days prior to the date of sale, at least once in a  
19 newspaper of general circulation printed and published in  
20 New York City carrying municipal bond notices and de-  
21 voted primarily to financial news. The commission may  
22 reject any and all bids submitted and may thereafter sell the  
23 bonds so advertised for sale at private sale to any financially  
24 responsible bidder under such terms and conditions as it  
25 deems most advantageous to the public interest, but the bonds



1 shall not be sold at a net interest cost calculated upon the  
2 entire issue so advertised, greater than the lowest bid which  
3 was rejected. In the event the commission desires to issue  
4 its bonds in exchange for an existing facility or portion  
5 thereof, or in exchange for bonds secured by the revenues of  
6 an existing facility, it may exchange such bonds for the  
7 existing facility or portion thereof or for the bonds so se-  
8 cured, plus an additional amount of cash, without advertising  
9 such bonds for sale.

10       12.14 Negotiability. All bonds issued under the pro-  
11 visions of this compact are negotiable instruments, except  
12 when registered in the name of a registered owner.

13       12.15 Legal Investments. Bonds of the commission  
14 shall be legal investments for savings banks, fiduciaries and  
15 public funds in each of the signatory states.

16       12.16 Validation Proceedings. Prior to the issuance of  
17 any bonds, the commission may institute a special proceeding  
18 to determine the legality of proceedings to issue the bonds  
19 and their validity under the laws of any of the signatory  
20 parties. Such proceeding shall be instituted and prosecuted  
21 in rem and the judgment rendered therein shall be conclusive  
22 against all persons whomsoever and against each of the  
23 signatory parties.

24       12.17 Recording. No indenture need be recorded or  
25 filed in any public office, other than the office of the com-

1 mission. The pledge of revenues provided in any indenture  
2 shall take effect forthwith as provided therein and irrespec-  
3 tive of the date of receipt of such revenues by the commission  
4 or the indenture trustee. Such pledge shall be effective as  
5 provided in the indenture without physical delivery of the  
6 revenues to the commission or to the indenture trustee.

7 12.18 Pledged Revenues. Bond redemption and  
8 interest payments shall, to the extent provided in the resolu-  
9 tion or indenture, constitute a first, direct and exclusive  
10 charge and lien on all such rates, rents, tolls, fees and charges  
11 and other revenues and interest thereon received from the  
12 use and operation of the facility, and on any sinking or  
13 other funds created therefrom. All such rates, rents, tolls,  
14 fees, charges and other revenues, together with interest  
15 thereon, shall constitute a trust fund for the security and pay-  
16 ment of such bonds and except as and to the extent provided  
17 in the indenture with respect to the payment therefrom  
18 of expenses for other purposes including administration,  
19 operation, maintenance, improvements or extensions of the  
20 facilities or other purposes shall not be used or pledged for  
21 any other purpose so long as such bonds, or any of them,  
22 are outstanding and unpaid.

23 12.19 Remedies. The holder of any bond may for the  
24 equal benefit and protection of all holders of bonds similarly  
25 situated: (a) by mandamus or other appropriate proceed-

ings require and compel the performance of any of the duties imposed upon the commission or assumed by it, its officers, agents or employees under the provisions of any indenture, in connection with the acquisition, construction, operation, maintenance, repair, reconstruction or insurance of the facilities, or in connection with the collection, deposit, investment, application and disbursement of the rates, rents, tolls, fees, charges and other revenues derived from the operation and use of the facilities, or in connection with the deposit, investment and disbursement of the proceeds received from the sale of bonds; or (b) by action or suit in a court of competent jurisdiction of any signatory party require the commission to account as if it were the trustee of an express trust, or enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds.

12.20 Capital Financing by Signatory Parties; Guarantees.

(a) The signatory parties will provide such capital funds required for projects of the commission as may be authorized by their respective statutes in accordance with a cost sharing plan prepared pursuant to Article 11 of this compact; but nothing in this section shall be deemed to impose any man-



1 datory obligation on any of the signatory parties other than  
2 such obligations as may be assumed by a signatory party in  
3 connection with a specific project or facility.

4 (b) Bonds of the commission, notwithstanding any  
5 other provision of this compact, may be executed and de-  
6 livered to any duly authorized agency of any of the signatory  
7 parties without public offering and may be sold and resold  
8 with or without the guarantee of such signatory party, sub-  
9 ject to and in accordance with the constitutions of the re-  
10 spective signatory parties.

11 (c) The commission may receive and accept, and the  
12 signatory parties may make, loans, grants, appropriations,  
13 advances and payments of reimbursable or non-reimbursable  
14 funds or property in any form for the capital or operating  
15 purposes of the commission.

## 16 ARTICLE 13

### 17 PLAN, PROGRAM AND BUDGETS

18 Section 13.1 Comprehensive Plan. The commission  
19 shall develop and adopt, and may from time to time review  
20 and revise, a comprehensive plan for the immediate and long  
21 range development and use of the water resources of the ba-  
22 sin. The plan shall include all public and private projects  
23 and facilities which are required, in the judgment of the  
24 commission, for the optimum planning, development, con-  
25 servation, utilization, management and control of the water

1 resources of the basin to meet present and future needs; pro-  
2 vided that the plan shall include any projects required to con-  
3 form with any present or future decree or judgment of any  
4 court of competent jurisdiction. The commission may adopt  
5 a comprehensive plan or any revision thereof in such part  
6 or parts as it may deem appropriate, provided that before the  
7 adoption of the plan or any part or revision thereof the com-  
8 mission shall consult with water users and interested public  
9 bodies and public utilities and shall consider and give due  
10 regard to the findings and recommendations of the various  
11 agencies of the signatory parties and their political subdivi-  
12 sions. The commission shall conduct public hearings with  
13 respect to the comprehensive plan prior to the adoption of the  
14 plan or any part or revision thereof.

15 13.2 Water Resources Program. The commission  
16 shall annually adopt a water resources program, based upon  
17 the comprehensive plan, consisting of the projects and facili-  
18 ties which the commission proposes to be undertaken by the  
19 commission and by other authorized governmental and  
20 private agencies, organizations and persons during the en-  
21 suing six years or such other reasonably foreseeable period as  
22 the commission may determine. The water resources pro-  
23 gram shall include a systematic presentation of:

24 1) the quantity and quality of water resources needs for  
25 such period;

2) the existing and proposed projects and facilities required to satisfy such needs, including all public and private projects to be anticipated;

3) a separate statement of the projects proposed to be undertaken by the commission during such period.

### 13.3 Annual Current Expense and Capital Budgets.

(a) The commission shall annually adopt a capital budget including all capital projects it proposes to undertake or continue during the budget period containing a statement of the estimated cost of each project and the method of financing thereof.

(b) The commission shall annually adopt a current expense budget for each fiscal year. Such budget shall include the commission's estimated expenses for administration, operation, maintenance and repairs, including a separate statement thereof for each project, together with its cost allocation. The total of such expenses shall be balanced by the commission's estimated revenues from all sources, including the cost allocations undertaken by any of the signatory parties in connection with any project. Following the adoption of the annual current expense budget by the commission, the executive director of the commission shall:

1) certify to the respective signatory parties the amounts due in accordance with existing cost sharing established for each project; and



2) transmit certified copies of such budget to the principal budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures. The amount required to balance the current expense budget in addition to the aggregate amount of item (1) above and all other revenues available to the commission shall be apportioned equitably among the signatory parties by unanimous vote of the commission, and the amount of such apportionment to each signatory party shall be certified together with the budget.

(c) The respective signatory parties covenant and agree to include the amounts so apportioned for the support of the current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the commission in quarterly installments during its fiscal year, provided that the commission may draw upon its working capital to finance its current expense budget pending remittances by the signatory parties.

## ARTICLE 14

## GENERAL PROVISIONS

23       Section 14.1   Auxiliary Powers of Commission; Func-  
24   tions of Commissioners.

1       (a) The commission, for the purposes of this compact,  
2 may:

3       1) Adopt and use a corporate seal, enter into contracts,  
4 sue and be sued in all courts of competent jurisdiction;

5       2) Receive and accept such payments, appropriations,  
6 grants, gifts, loans, advances and other funds, properties and  
7 services as may be transferred or made available to it by any  
8 signatory party or by any other public or private corporation  
9 or individual, and enter into agreements to make reimburse-  
10 ment for all or part thereof;

11       3) Provide for, acquire and adopt detailed engineering,  
12 administrative, financial and operating plans and specifica-  
13 tions to effectuate, maintain or develop any facility or  
14 project;

15       4) Control and regulate the use of facilities owned or  
16 operated by the commission;

17       5) Acquire, own, operate, maintain, control, sell and  
18 convey real and personal property and any interest therein  
19 by contract, purchase, lease, license, mortgage or otherwise  
20 as it may deem necessary for any project or facility, includ-  
21 ing any and all appurtenances thereto necessary, useful or  
22 convenient for such ownership, operation, control, mainte-  
23 nance or conveyance;

1       6) Have and exercise all corporate powers essential  
2 to the declared objects and purposes of the commission.

3       (b) The commissioners, subject to the provisions of this  
4 compact, shall:

5       1) Serve as the governing body of the commission,  
6 and exercise and discharge its powers and duties except  
7 as otherwise provided by or pursuant to this compact;

8       2) Determine the character of and the necessity for its  
9 obligations and expenditures and the manner in which they  
10 shall be incurred, allowed, and paid subject to any provi-  
11 sions of law specifically applicable to agencies or instru-  
12 mentalities created by compact;

13       3) Provide for the internal organization and administra-  
14 tion of the commission;

15       4) Appoint the principal officers of the commission  
16 and delegate to and allocate among them administrative  
17 functions, powers and duties;

18       5) Create and abolish offices, employments and posi-  
19 tions as it deems necessary for the purposes of the commis-  
20 sion, and subject to the provisions of this article, fix and  
21 provide for the qualification, appointment, removal, term,  
22 tenure, compensation, pension and retirement rights of its  
23 officers and employees;

24       6) Let and execute contracts to carry out the powers  
25 of the commission.



1        14.2 Regulations; Enforcement. The commission  
2 may:

3        (a) Make and enforce reasonable rules and regulations  
4 for the effectuation, application and enforcement of this com-  
5 pact; and it may adopt and enforce practices and schedules  
6 for or in connection with the use, maintenance and admin-  
7 istration of projects and facilities it may own or operate and  
8 any product or service rendered thereby; provided that any  
9 rule or regulation, other than one which deals solely with  
10 the internal management of the commission, shall be adopted  
11 only after public hearing and shall not be effective unless  
12 and until filed in accordance with the law of the respective  
13 signatory parties applicable to administrative rules and reg-  
14 ulations generally; and

15        (b) Designate any officer, agent or employee of the  
16 commission to be an investigator or watchman and such  
17 person shall be vested with the powers of a peace officer of  
18 the state in which he is duly assigned to perform his duties.

19        14.3 Tax Exemption. The commission, its property,  
20 functions, and activities shall be exempt from taxation by or  
21 under the authority of any of the signatory parties or any  
22 political subdivision thereof; provided that in lieu of prop-  
23 erty taxes the commission shall, as to specific projects, make  
24 payments to local taxing districts in annual amounts which  
25 shall equal the taxes lawfully assessed upon property for the

1 tax year next prior to its acquisition by the commission for  
2 a period of ten years. The nature and amount of such pay-  
3 ments shall be reviewed by the commission at the end of ten  
4 years, and from time to time thereafter, upon reasonable  
5 notice and opportunity to be heard to the affected taxing  
6 district, and the payments may be thereupon terminated or  
7 continued in such reasonable amount as may be necessary  
8 or desirable to take into account hardships incurred and bene-  
9 fits received by the taxing jurisdiction which are attributable  
10 to the project.

11 14.4 Meetings; Public Hearings; Records, Minutes.

12 (a) All meetings of the commission shall be open to  
13 the public.

14 (b) The commission shall conduct at least one public  
15 hearing prior to the adoption of the comprehensive plan,  
16 water resources program, annual capital and current expense  
17 budgets, the letting of any contract for the sale or other dis-  
18 position by the commission of hydroelectric energy or water  
19 resources to any person, corporation or entity, and in all  
20 other cases wherein this compact requires a public hearing.  
21 Such hearing shall be held upon at least ten days public  
22 notice given by posting at the offices of the commission. The  
23 commission shall also provide forthwith for distribution of  
24 such notice to the press and by the mailing of a copy thereof  
25 to any person who shall request such notices.

1 (c) The minutes of the commission shall be a public  
2 record open to inspection at its offices during regular business  
3 hours.

#### 4 14.5 Officers Generally.

5 (a) The officers of the commission shall consist of an  
6 executive director and such additional officers, deputies and  
7 assistants as the commission may determine. The executive  
8 director shall be appointed and may be removed by the af-  
9 firmative vote of a majority of the full membership of the  
10 commission. All other officers and employees shall be ap-  
11 pointed by the executive director under such rules of pro-  
12 cedure as the commission may determine.

13 (b) In the appointment and promotion of officers and  
14 employees for the commission, no political, racial, religious  
15 or residence test or qualification shall be permitted or given  
16 consideration, but all such appointments and promotions  
17 shall be solely on the basis of merit and fitness. Any officer  
18 or employee of the commission who is found by the com-  
19 mission to be guilty of a violation of this section shall be  
20 removed from office by the commission.

21 14.6 Oath of Office. An oath of office in such form  
22 as the commission shall prescribe shall be taken, subscribed  
23 and filed with the commission by the executive director and  
24 by each officer appointed by him not later than fifteen days  
25 after the appointment.



1       14.7 Bond. Each officer shall give such bond and in  
2 such form and amount as the commission may require for  
3 which the commission may pay the premium.

4       14.8 Prohibited Activities.

5       (a) No commissioner, officer or employee shall:

6       1) be financially interested, either directly or indi-  
7 rectly, in any contract, sale, purchase, lease or transfer of  
8 real or personal property to which the commission is a party;

9       2) solicit or accept money or any other thing of value  
10 in addition to the compensation or expenses paid him by the  
11 commission for services performed within the scope of his  
12 official duties;

13       3) offer money or any thing of value for or in considera-  
14 tion of obtaining an appointment, promotion or privilege  
15 in his employment with the commission.

16       (b) Any officer or employee who shall willfully violate  
17 any of the provisions of this section shall forfeit his office or  
18 employment.

19       (c) Any contract or agreement knowingly made in  
20 contravention of this section is void.

21       (d) Officers and employees of the commission shall be  
22 subject in addition to the provisions of this section to such  
23 criminal and civil sanctions for misconduct in office as may

1 be imposed by federal law and the law of the signatory state  
2 in which such misconduct occurs.

3 14.9 Purchasing. Contracts for the construction, re-  
4 construction or improvement of any facility when the ex-  
5 penditure required exceeds ten thousand dollars and contracts  
6 for the purchase of services, supplies, equipment and mate-  
7 rials when the expenditure required exceeds two thousand  
8 five hundred dollars shall be advertised and let upon sealed  
9 bids to the lowest responsible bidder. Notice requesting such  
10 bids shall be published in a manner reasonably likely to at-  
11 tract prospective bidders, which publication shall be made  
12 at least ten days before bids are received and in at least  
13 two newspapers of general circulation in the basin. The  
14 commission may reject any and all bids and readvertise in  
15 its discretion. If after rejecting bids the commission deter-  
16 mines and resolves that in its opinion the supplies, equip-  
17 ment and materials may be purchased at a lower price in the  
18 open market, the commission may give each responsible  
19 bidder an opportunity to negotiate a price and may proceed  
20 to purchase the supplies, equipment and materials in the open  
21 market at a negotiated price which is lower than the lowest  
22 rejected bid of a responsible bidder, without further ob-  
23 servance of the provisions requiring bids or notice. The com-

1 mission shall adopt rules and regulations to provide for pur-  
2 chasing from the lowest responsible bidder when sealed  
3 bids, notice and publication are not required by this section.  
4 The commission may suspend and waive the provisions of  
5 this section requiring competitive bids whenever:

6 1) the purchase is to be made from or the contract to be  
7 made with the federal or any state government or any agency  
8 or political subdivision thereof or pursuant to any open end  
9 bulk purchase contract of any of them;

10 2) the public exigency requires the immediate delivery  
11 of the articles or performance of the service;

12 3) only one source of supply is available;

13 4) the equipment to be purchased is of a technical na-  
14 ture and the procurement thereof without advertising is nec-  
15 essary in order to assure standardization of equipment and  
16 interchangeability of parts in the public interest; or

17 5) services are to be provided of a specialized or pro-  
18 fessional nature.

19 14.10<sup>1</sup> Insurance. The commission may self-insure  
20 or purchase insurance and pay the premiums therefor against  
21 loss or damage to any of its properties; against liability for  
22 injury to persons or property; and against loss of revenue  
23 from any cause whatsoever. Such insurance coverage shall



1 be in such form and amount as the commission may deter-  
2 mine, subject to the requirements of any agreement arising  
3 out of the issuance of bonds by the commission.

4 14.11 Annual Independent Audit.

5 (a) As soon as practical after the closing of the fiscal  
6 year, an audit shall be made of the financial accounts of  
7 the commission. The audit shall be made by qualified certi-  
8 fied public accountants selected by the commission, who have  
9 no personal interest direct or indirect in the financial affairs  
10 of the commission or any of its officers or employees. The  
11 report of audit shall be prepared in accordance with accepted  
12 accounting practices and shall be filed with the chairman and  
13 such other officers as the commission shall direct. Copies  
14 of the report shall be distributed to each commissioner and  
15 shall be made available for public distribution.

16 (b) Each signatory party by its duly authorized officers  
17 shall be entitled to examine and audit at any time all of the  
18 books, documents, records, files and accounts and all other  
19 papers, things or property of the commission. The repre-  
20 sentatives of the signatory parties shall have access to all  
21 books, documents, records, accounts, reports, files and all  
22 other papers, things or property belonging to or in use by  
23 the commission and necessary to facilitate the audit and

1 they shall be afforded full facilities for verifying transactions  
2 with the balances or securities held by depositaries, fiscal  
3 agents and custodians.

4 (c) The financial transactions of the commission shall  
5 be subject to audit by the general accounting office in ac-  
6 cordance with the principles and procedures applicable to  
7 commercial corporate transactions and under such rules and  
8 regulations as may be prescribed by the comptroller general  
9 of the United States. The audit shall be conducted at the  
10 place or places where the accounts of the commission are  
11 kept.

12 (d) Any officer or employee who shall refuse to give  
13 all required assistance and information to the accountants se-  
14 lected by the commission or to the authorized officers of any  
15 signatory party or who shall refuse to submit to them for  
16 examination such books, documents, records, files, accounts,  
17 papers, things or property as may be requested shall forfeit  
18 his office.

19 14.12 Reports. The commission shall make and publish  
20 an annual report to the legislative bodies of the signatory  
21 parties and to the public reporting on its programs, opera-  
22 tions and finances. It may also prepare, publish and dis-  
23 tribute such other public reports and informational materials  
24 as it may deem necessary or desirable.

1        14.13 Grants, Loans or Payments by States or Politi-  
2 cal Subdivisions.

3        (a) Any or all of the signatory parties or any political  
4 subdivision thereof may:

5        1) Appropriate to the commission such funds as may  
6 be necessary to pay preliminary expenses such as the ex-  
7 penses incurred in the making of borings, and other studies  
8 of subsurface conditions, in the preparation of contracts for  
9 the sale of water and in the preparation of detailed plans  
10 and estimates required for the financing of a project;

11        2) Advance to the commission, either as grants or  
12 loans, such funds as may be necessary or convenient to  
13 finance the operation and management of or construction by  
14 the commission of any facility or project;

15        3) Make payments to the commission for benefits  
16 received or to be received from the operation of any of  
17 the projects or facilities of the commission.

18        (b) Any funds which may be loaned to the commission  
19 either by a signatory party or a political subdivision thereof  
20 shall be repaid by the commission through the issuance  
21 of bonds or out of other income of the commission, such  
22 repayment to be made within such period and upon such  
23 terms as may be agreed upon between the commission and  
24 the signatory party or political subdivision making the loan.



1        14.14    Condemnation Proceedings.

2        (a)    The commission shall have the power to acquire  
3    by condemnation the fee or any lesser interest in lands,  
4    lands lying under water, development rights in land, ripar-  
5    ian rights, water rights, waters and other real or personal  
6    property within the basin for any project or facility author-  
7    ized pursuant to this compact. This grant of power of  
8    eminent domain includes but is not limited to the power to  
9    condemn for the purposes of this compact any property  
10   already devoted to a public use, by whomsoever owned or  
11   held, other than property of a signatory party and any  
12   property held, constructed, operated or maintained in con-  
13   nection with a diversion authorized by a United States  
14   Supreme Court decree. Any condemnation of any property  
15   or franchises owned or used by a municipal or privately  
16   owned public utility, unless the affected public utility facility  
17   is to be relocated or replaced, shall be subject to the au-  
18   thority of such state board, commission or other body as  
19   may have regulatory jurisdiction over such public utility.

20        (b)    Such power of condemnation shall be exercised  
21   in accordance with the provisions of any federal law appli-  
22   cable to the commission; provided that if there is no such  
23   applicable federal law, condemnation proceedings shall be  
24   in accordance with the provisions of such general state con-

1 demnation law as may be in force in the signatory state in  
2 which the property is located.

3 (c) Any award or compensation for the taking of  
4 property pursuant to this article shall be paid by the com-  
5 mission, and none of the signatory parties nor any other  
6 agency, instrumentality or political subdivision thereof shall  
7 be liable for such award or compensation.

8 14.15 Conveyance of Lands and Relocation of Public  
9 Facilities.

10 (a) The respective officers, agencies, departments, com-  
11 missions or bodies having jurisdiction and control over real  
12 and personal property owned by the signatory parties are  
13 authorized and empowered to transfer and convey in accord-  
14 ance with the laws of the respective parties to the commis-  
15 sion any such property as may be necessary or convenient to  
16 the effectuation of the authorized purposes of the commission.

17 (b) Each political subdivision of each of the signatory  
18 parties is authorized and empowered, notwithstanding any  
19 contrary provision of law, to grant and convey to the com-  
20 mission, upon the commission's request, any real property  
21 or any interest therein owned by such political subdivision in-  
22 cluding lands lying under water and lands already devoted to  
23 public use which may be necessary or convenient to the ef-  
24 fectuation of the authorized purposes of the commission.

1       (c) Any highway, public utility or other public facility  
2       which will be dislocated by reason of a project deemed neces-  
3       sary by the commission to effectuate the authorized purposes  
4       of this compact shall be relocated and the cost thereof shall  
5       be paid in accordance with the law of the state in which the  
6       facility is located; provided that the cost of such relocation  
7       payable by the commission shall not in any event exceed the  
8       expenditure required to serve the public convenience and  
9       necessity.

10       14.16 Rights of Way. Permission is hereby granted  
11       to the commission to locate, construct and maintain any  
12       aqueducts, lines, pipes, conduits and auxiliary facilities au-  
13       thorized to be acquired, constructed, owned, operated or  
14       maintained by the commission in, over, under or across any  
15       streets and highways now or hereafter owned, opened or  
16       dedicated to or for public use, subject to such reasonable con-  
17       ditions as the highway department of the signatory party  
18       may require.

19       14.17 Penal Sanction. Any person, association or  
20       corporation who violates or attempts or conspires to violate  
21       any provision of this compact or any rule, regulation or order  
22       of the commission duly made, promulgated or issued pur-  
23       suant to the compact in addition to any other remedy,  
24       penalty or consequence provided by law shall be punishable  
25       as may be provided by statute of any of the signatory parties



1 within which the offense is committed; provided that in the  
2 absence of such provision any such person, association or  
3 corporation shall be liable to a penalty of not less than \$50  
4 nor more than \$1,000 for each such offense to be fixed by  
5 the court which the commission may recover in its own name  
6 in any court of competent jurisdiction, and in a summary  
7 proceeding where available under the practice and procedure  
8 of such court. For the purposes of this section in the event  
9 of a continuing offense each day of such violation, attempt  
10 or conspiracy shall constitute a separate offense.

11 14.18 Tort Liability. The commission shall be re-  
12 sponsible for claims arising out of the negligent acts or  
13 omissions of its officers, agents and employees only to the  
14 extent and subject to the procedures prescribed by law gen-  
15 erally with respect to officers, agents and employees of the  
16 government of the United States.

17 14.19 Effect on Riparian Rights. Nothing contained  
18 in this compact shall be construed as affecting or intending  
19 to affect or in any way to interfere with the law of the respec-  
20 tive signatory parties relating to riparian rights.

21 14.20 Amendments and Supplements. Amendments  
22 and supplements to this compact to implement the purposes  
23 thereof may be adopted by legislative action of any of the  
24 signatory parties concurred in by all of the others.

25 14.21 Construction and Severability. The provisions

1 of this act and of agreements thereunder shall be severable  
2 and if any phrase, clause, sentence or provision of this com-  
3 pact or such agreement is declared to be unconstitutional  
4 or the applicability thereof to any signatory party, agency  
5 or person is held invalid, the constitutionality of the remain-  
6 der of this compact or such agreement and the applicability  
7 thereof to any other signatory party, agency, person or cir-  
8 cumstance shall not be affected thereby. It is the legis-  
9 lative intent that the provisions of this compact be reason-  
10 ably and liberally construed.

11       14.22 Effective Date; Execution. This compact shall  
12 become binding and effective thirty days after the enactment  
13 of concurring legislation by the federal government, the  
14 states of Delaware, New Jersey and New York, and the  
15 Commonwealth of Pennsylvania. The compact shall be  
16 signed and sealed in six duplicate original copies by the  
17 respective chief executives of the signatory parties. One  
18 such copy shall be filed with the Secretary of State of each  
19 of the signatory parties or in accordance with the laws of  
20 the state in which the filing is made, and one copy shall be  
21 filed and retained in the archives of the commission upon its  
22 organization. The signatures shall be affixed and attested  
23 under the following form:

1       IN WITNESS WHEREOF, and in evidence of the  
2 adoption and enactment into law of this compact by the  
3 Congress and legislatures, respectively, of the signatory  
4 parties, the President of the United States and the respective  
5 Governors do hereby, in accordance with authority conferred by law, sign this compact in six duplicate original  
6 copies, as attested by the respective secretaries of state, and  
7 have caused the seals of the United States and of the respective  
8 states to be hereunto affixed this           day of  
9  
10                               , 19   .

## 11                               PART II

### 12                               ARTICLE 15

#### 13                               EFFECTUATION

14       15.1 Reservations. (a) The right to alter, amend, or repeal  
15 this Act is expressly reserved to the Congress.

16       (b) The right is hereby reserved to the Congress or  
17 any of its standing committees to require the disclosure  
18 and furnishing of such information and data by the Delaware  
19 River Basin Compact Commission as is deemed appropriate  
20 by the Congress or any such committee.

21       15.2 Repealer. All acts and parts of acts inconsistent  
22 with any provision of this act are to the extent of such inconsistency  
23 hereby repealed.



1       15.3. Effectuation by the President. The President  
2 is authorized to take such action as may be necessary and  
3 proper, in his discretion, to effectuate the compact and the  
4 initial organization and operation of the commission there-  
5 under.

6       15.4 Effective Date. [This act shall take effect im-  
7 mediately.



87<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

H. J. RES. 225

[Report No. 310]

JOINT RESOLUTION

To grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes.

By Mr. WALTER

FEBRUARY 15, 1961

Referred to the Committee on the Judiciary

APRIL 26, 1961

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed







# Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF  
BUDGET AND FINANCE

(For Department  
Staff Only)

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For actions of May 15, 1961  
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HIGHLIGHTS: House committee reported bill to authorize transfer of cotton acreage allotments in disaster areas. House committee reported Labor-HEW appropriation bill. Sen. Fulbright, with others, introduced and discussed bill to authorize transfer of cotton acreage allotments in disaster areas.

## HOUSE

1. COTTON. The Agriculture Committee reported with amendment H. R. 7030, to authorize the Secretary of Agriculture to permit producers to transfer to other land their 1961 cotton acreage allotments on lands which cannot be planted because of a natural disaster (H. Rept. 393). p. 7470
2. DELAWARE RIVER BASIN COMPACT. Passed over without prejudice H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the U. S. p. 7438
3. PERSONNEL. Passed without amendment H. R. 2554, to repeal section 14(c) of title 6 of the United States Code requiring an annual report by the Secretary of the Treasury with respect to the bonding of officers and employees of the Federal Government. p. 7442  
Passed without amendment H. R. 5432, to make permanent the 1953 cost-of-living increases in annuities payable from the civil service retirement and disability fund. p. 7444  
The "Daily Digest" states that a Post Office and Civil Service Committee subcommittee ordered reported to the full committee with amendments H. R. 5674, to provide for the protection of basic compensation rates for employees affected by downgrading actions. p. D349



4. PUBLIC LANDS; FORESTRY. Passed, as reported H. R. 6422, to add federally owned lands to, and exclude federally owned lands from, the Cedar Breaks National Monument, Utah (includes Forest Service lands). p. 7443
5. TARIFFS. By a vote of 74 to 6, passed without amendment H. R. 6611, to reduce temporarily the exemption from duty enjoyed by returning residents. pp. 7444-8
6. APPROPRIATIONS. The Appropriations Committee reported without amendment H. R. 7035, making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year 1962 (H. Rept. 392). p. 7470

#### SENATE

7. EDUCATION. The Labor and Public Welfare Committee reported with amendments S. 1021, to authorize Federal financial assistance for public school facilities (S. Rept. 255). p. 7393
8. FARM CREDIT. Received the Farm Credit Administration's proposed bill "to amend further the Federal Farm Loan Act and the Farm Credit Act of 1933, as amended, and for other purposes"; to Agriculture and Forestry Committee. p. 7393
9. FARM PROGRAM. Sen. Hickenlooper inserted an article and an editorial discussing former Vice President Nixon's recent speech in Des Moines, "Nixon Charges Farm Deceit: Corn Prices Forced Down, He Contends; Rakes Freeman in Talk at Des Moines," and "Nixon's Criticism of Kennedy." pp. 7403-4
10. PERSONNEL. Sen. Mansfield inserted an article by Sen. Jackson discussing the importance of developing a competent career service in the Federal Government, including better training of candidates for top positions, selection of highly qualified people from private life, and higher salaries for positions at the sub-Cabinet level. He contended that "our Government has been very niggardly in giving civilian officials opportunities for advanced training," and that we "need the finest leadership, the finest planners and the finest administrators our country can produce." pp. 7405-7
11. FOREIGN AFFAIRS. Sen. Wiley inserted several letters in support of his proposal for greater cooperation between the Government and U. S. businessmen abroad in implementing our foreign policy objectives. pp. 7430-2
12. LEGISLATIVE PROGRAM. Sen. Mansfield announced that the consent calendar will be called on Tues. p. 7407

#### ITEMS IN APPENDIX

13. CONSERVATION. Extension of remarks of Sen. Kefauver, inserting an editorial commending designation of John Wilder as Watershed Man of the Year. p. A3358
14. DEPRESSED AREAS. Extension of remarks of Rep. Edmondson, saying "Under aggressive and enlightened New Frontier leadership, the tremendous area development program just passed by the Congress is off to a flying start ..." p. A3372  
Extension of remarks of Rep. Johnson, Wis., inserting Clyde Ellis' speech as to how cooperatives can be used for carrying out rural areas development program. pp. 3379-80



nist Party or some other party or society whose aims are inimical to the security of the United States. The trial court in the Yates case had instructed the jury that the term "organize" included such things "as the recruiting of new members and the forming of new units, and the regrouping or expansion of existing clubs, classes, and other units of any society, party, group, or other organization." The House Judiciary Committee concluded that this definition adequately expresses the original intention of Congress when it enacted the Smith Act, and my bill, approved by the committee, contains substantially that language.

The necessity for immediate action to counteract the effects of the Yates decision is born out by a report received by the subcommittee from the Department of Justice outlining the history of Smith Act conspiracy cases since the decision in Yates against United States. The following seven such cases have been reversed by courts of appeals, at least in part based upon the Yates decision's defining or "organize":

1. *Bary* case, Denver, 10th circuit (248 Fed. 2d 201): Seven defendants; August 23, 1957.
2. *Sentner*, St. Louis, eighth circuit: Five defendants; April 4, 1958.
3. *Brandt*, Cleveland, sixth circuit: Six defendants; May 23, 1958.
4. *Welman*, Detroit, sixth circuit: Six defendants; March 25, 1958.
5. *Kuzma*, Philadelphia, third circuit: Ordered the acquittal of four and authorized retrial of five; November 13, 1957.
6. *Fujimoto*, Hawaii, ninth circuit: All seven defendants ordered acquitted; January 16, 1958.
7. *Huff*, Seattle, ninth circuit: The convictions of all four defendants who had appealed were ordered reversed. One of the defendants in this case did not appeal but served her sentence, and therefore her conviction still stands; January 16, 1958.

The Government was authorized to retry the following 6 cases in which a total of 39 defendants were involved:

Yates	10
Bary	7
Sentner	5
Brandt	6
Welman	6
Kuzma	5

The Department of Justice reports that the Government dismissed the Kuzma and Yates cases, involving a total of 15 defendants, partly on the Yates definition of "organize." Still under consideration are the remaining 4 cases involving 24 defendants. In addition, the Government, since the Yates case, has also dismissed, in part due to the "organize" definition in Yates, two conspiracy cases involving 17 defendants, which had not been tried at the time of the Yates decision.

The House Judiciary Committee has supported me in my opinion that, in view of the definition placed by the Supreme Court upon the term "organize" as it is used in the Smith Act, and its resulting deleterious effect upon the Government's efforts to combat the Communist conspiracy in this country, action should be taken by Congress to assert its intention with respect to organizational activities, particularly of the Communist party.

My bill is a simple, unambiguous measure which affords the necessary solution to the problem and therefore I urge that H.R. 3247 do pass.

(Mr. McCULLOCH (at the request of Mrs. WEIS) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. McCULLOCH. Mr. Speaker, I support H.R. 3247, a bill introduced by my colleague on the Judiciary Committee, Mr. Cramer, to define the term "organize" as used in the Smith Act.

Identical bills passed the House without opposition in both the 85th and 86th Congresses. This bill had the endorsement of the Department of Justice during the Eisenhower administration. In my opinion, and in the opinion of many of those charged with protecting our country from communist infiltration by those agents intent on teaching the violent overthrow of our Government, this is an essential amendment to the Smith Act.

An amendment is necessary in order to overcome the decision of the Supreme Court in the Yates case, wherein the Court held that the term "organize" referred only to the official organization of the Communist Party and not to the continuing process of organization.

In my opinion there can be no clearer example of the Supreme Court misconstruing the original intention of Congress. Therefore, I hope my colleagues on both sides of the aisle will join me in voting for the measure in order to restore the original definition intended by Congress of the term "organize."

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### WAIVE RESTRICTION OF THE NEW MEXICO ENABLING ACT

The Clerk called the bill (H.R. 2551) to waive certain restrictions of the New Mexico Enabling Act with respect to certain sales of lands granted to the State by the United States; and to consent to an amendment of the constitution of the State of New Mexico.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that a similar Senate bill, S. 104, be considered in lieu of the House bill.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There being no objection, the Clerk read the Senate bill as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That those provisions of section 10 of the Act entitled "An Act to enable the people of New Mexico to form a constitution and State government and be admitted into the Union on an equal footing with the original States; and to enable the people of Arizona to form a constitution and State government and*

*be admitted to the Union on an equal footing with the original States", approved June 20, 1910 (36 Stat. 557, 563), which provides that, in the case of the sale by the State of New Mexico of lands granted or confirmed to the State by such Act, legal title shall not be deemed to have passed until the consideration shall have been paid and any sale not made in substantial conformity with the provisions of such Act shall be null and void, are hereby waived with respect to the following sales by the State of New Mexico of lands which constituted, or constitute, a portion of a tract of land for the sale of which a contract had been previously entered into, but only insofar as such sales would (but for the enactment of this Act) violate the terms and conditions contained in section 10 of such Act because of the fact that the full consideration for the entire tract was not, or is not, paid prior to the time of the sale of such portion and the issuance of the patent therefor:*

(1) Any sale of any such portion, if the patent with respect thereto was issued on or before September 4, 1956;

(2) Any sale of any such portion, if the patent with respect thereto is issued after September 4, 1956, and if the right to purchase such portion is derived from an assignment, made on or before September 4, 1956, under the contract to purchase the entire tract; and

(3) Any sale of any such portion, if the patent with respect thereto is issued after September 4, 1956, and if the right to purchase such portion is derived from the contract to purchase the entire tract or from a contract entered into in substitution of such contract, and if the right or rights to purchase all other portions of such tract were, on or before September 4, 1956, assigned or relinquished by the person who entered into such contract.

Consent is hereby given to the State of New Mexico to adopt any amendment to the constitution of the State or to enact any laws necessary to carry out the purposes hereof.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 2551) was laid on the table.

#### LANDS AT NELLIS AIR FORCE RANGE, NEV.

The Clerk called the bill (H.R. 6494) to provide for withdrawal and reservation for the use of the Department of Defense of certain public lands of the United States at Nellis Air Force Range, Nev., for defense purposes.

There being no objection, the Clerk read the bill as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to valid existing rights, the public lands, and the minerals therein, within the areas described in section 2 of this Act are hereby withdrawn from all appropriations and other forms of disposition under the public land laws, including the mining and mineral leasing laws and disposals of materials under the Act of July 31, 1947, as amended (61 Stat. 681; 30 U.S.C. 601-604), except as provided in subsection (b) of this section, and reserved (subject to an agreement which has been approved by the Secretary of Defense and the Secretary of the Interior for the joint use of the lands for military, grazing, and wildlife purposes), for the use of the Department of Defense for a period of ten years with an option to renew the withdrawal and reservation for*



a period of five years upon notice to the Secretary of the Interior, and subject to the condition that the reservation may be terminated at any time during either of such periods by the Secretary of Defense upon notice to the Secretary of the Interior. However, this Act does not affect Executive Order Numbered 7373 of May 20, 1936 (1 F.R. 427), establishing the Desert Game Range, except to the extent rendered necessary by the national defense.

(b) Lands and resources withdrawn and reserved by subsection (a) of this section shall be subject to such appropriation and other disposition as the Secretary of the Interior shall determine to be consistent both with the requirements of Executive Order Numbered 7373 of May 20, 1936 (1 F.R. 427), and, with the approval of the Secretary of Defense, with the requirements of the national defense. The Secretary of the Interior may, with the concurrence of the Secretary of Defense, authorize use or disposition of any of the lands or resources withdrawn and reserved by subsection (a) of this section.

(c) Nothing contained in this Act shall be construed to prohibit applications for further withdrawals and reservations at the time of termination or expiration of any withdrawal or reservation under subsection (a) of this section, under laws and regulations then existing.

SEC. 2. The lands withdrawn and reserved by this Act are those that are now or may hereafter become subject to the public land laws within the areas described as follows: Approximately 81,480 acres of land, more or less, located approximately 27 miles northwest from the eastern boundary of Nellis Air Force Base, adjoining the eastern boundary of Nellis Air Force Range, Clark County, Nevada, and more fully described as follows:

(1) Parcel 1, adjoining the eastern and southern boundaries of the Nellis Air Force Range, Clark County, Nevada, comprised of township 15 south, ranges 57 and 58 east; sections 1 to 6, the northeast quarter of section 7, sections 8 to 16, the northeast quarter of section 17, the northeast quarter of section 21, sections 22 to 26, the northeast quarter of section 27, the northeast quarter of section 35, section 36, all in township 16 south, range 57 east; sections 1 to 7, the south half and the northwest quarter of section 8, the west half of section 16, sections 17 to 21, the southwest quarter of section 22, the southwest quarter of section 26, sections 27 to 35, all in township 16 south, range 58 east; sections 1 to 4, the northeast quarter of section 5, the northeast quarter of section 9, the north half, the southeast quarter, the north half of the southwest quarter and the southeast quarter of the southwest quarter of section 10, section 11, 12, the northwest quarter of section 13, the north half and the southeast quarter and the northeast quarter of the southwest quarter of section 14, the northeast quarter of the northeast quarter of section 15, all in township 17 south, range 58 east; section 6, the northwest quarter of section 7, all in township 17 south, range 59 east, Mount Diablo meridian, Clark County, Nevada, a total of 81,160 acres, more or less.

(2) Parcel 2, the south half of the southeast quarter and the southeast quarter of the southwest quarter of section 20, the southwest quarter of the southwest quarter of section 21, the northwest quarter of the northwest quarter of section 28, the north half of the northeast quarter and the northeast quarter of the northwest quarter of section 29, all in township 16 south, range 57 east; for a total of 320 acres, more or less.

Amend the title so as to read: "A bill to provide for withdrawal and reservation for the use of the Department of the Air Force of certain public lands of the United States

at Nellis Air Force Range, Nevada, for defense purposes."

With the following committee amendments:

Page 2, line 5, strike out the word "Defense" and insert in lieu thereof "the Air Force".

Page 2, line 10, strike out the word "Defense" and insert in lieu thereof "the Air Force".

Page 2, line 22, strike out the word "Defense," and insert in lieu thereof "the Air Force,".

Page 2, line 24, strike out the word "Defense," and insert in lieu thereof "the Air Force,".

Page 3, line 3, strike out all of subsection (c) and insert in lieu thereof the following:

"(c) Upon request of the Secretary of the Interior at the time of final termination of the reservation effected by this Act, the Department of the Air Force shall make safe for nonmilitary uses the land withdrawn and reserved, or such portions thereof as may be specified by the Secretary of the Interior, by neutralizing unexploded ammunition, bombs, artillery projectiles, or other explosive objects and chemical agents. Thereafter the Secretary of the Interior pursuant to law shall provide for the appropriate use or disposition of all or any part of the land withdrawn and reserved under provisions of this Act. Nothing in this subsection, however, shall be construed to prevent the Secretary of the Air Force at that time from making application for further withdrawal and reservation of all or part of said lands under laws and regulations then existing."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill to provide for withdrawal and reservation for the use of the Department of the Air Force of certain public lands of the United States at Nellis Air Force Range, Nev., for defense purposes."

A motion to reconsider was laid on the table.

#### DELAWARE RIVER BASIN COMPACT

The Clerk called the joint resolution (H.J. Res. 225) to grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes.

Mr. ASPINALL. Mr. Speaker, I ask unanimous consent that this resolution may be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Colorado?

There was no objection.

#### AMEND SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950

The Clerk called the bill (H.R. 5751) to amend the Subversive Activities Control Act of 1950 so as to require the registration of certain additional persons disseminating political propaganda within the United States as agents of a foreign principal, and for other purposes.

Mr. McFALL. Mr. Speaker, I ask unanimous consent that this bill may be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

(Mr. PELLY asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. PELLY. Mr. Speaker, this bill H.R. 5751 would provide a method of controlling unsolicited foreign propaganda and it in no way isolates citizens of this country from information they desire to receive.

At the present time, we are in effect subsidizing the dissemination of pro-Communist political propaganda, which is not designated as such for general distribution to our citizens of this country, most of whom do not want it nor have ever requested it.

It is estimated that in the year 1959 over 10 million individual propaganda items entered the United States from Soviet-bloc countries. The Foreign Agents Registration Act does not at the present time provide that this material be properly labeled at the time of importation.

H.R. 5751 is designed to correct this weakness and plug up this loophole in the act. It is patently ridiculous for this Government to use the taxpayers' dollars for the purpose of disseminating information for the most part entirely false and directed at the overthrow of our form of government.

May I emphasize that this identical bill passed the House in the 86th Congress under suspension of the rules. Unfortunately, it was not considered in the Senate before adjournment.

Investigations of the House Committee on Un-American Activities disclose the fact that Communist-bloc countries are using the subterfuge of channeling their pro-Communist propaganda through free countries such as Canada, Mexico, and some of the South American countries, thus giving the information an authentic guise.

The Foreign Agents Registration Act requires the registration with the Attorney General of those agents of a foreign power who disseminate political propaganda in the United States. It also requires the labeling of political propaganda so that the American public can be on notice respecting it. The theory underlying H.R. 5751 rejects any concept of censorship. It is based on the same premise which undergirds the labeling provisions commonly found in food and drug laws, which require the producers of poisonous drugs to label them as such.

As a result of the House Committee on Un-American Activities investigations and hearings, I am compelled to conclude that the American public is not being given the protection which the law contemplated. Now that the executive branch of the Government has seen fit to discontinue the Government's practice of intercepting Communist propaganda mailed into this country from abroad, the poison will be poured into the veins







# Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF  
BUDGET AND FINANCE

(For Department  
Staff Only)

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87th-1st, No. 93

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HIGHLIGHTS: House committee reported independent offices appropriation bill (on June 2).

### HOUSE

1. APPROPRIATIONS. The Appropriations Committee reported (on Fri. during adjournment) H. R. 7445, the independent offices appropriation bill for 1962 (H. Rept. 449). p. 8834  
House conferees were appointed on H. R. 5954, the Treasury-Post Office appropriation bill for 1962. Senate conferees have been appointed. p. 8803  
The Appropriations Committee reported (on Fri. during adjournment) H. R. 7444, the agricultural appropriation bill for 1962 (H. Rept. 448). See Digest 92 for items of interest. p. 8834
2. DELAWARE RIVER BASIN COMPACT. Passed over without prejudice H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the U. S. p. 8803
3. MINING. Passed as reported H. R. 2924, repealing an act extending the time in which to file adverse claims and institute adverse suits against mineral entries in Alaska. p. 8803
4. TAX RATES. The Ways and Means Committee reported without amendment H. R. 7446, to provide a 1-year extension of the existing corporate normal tax rate and of certain excise tax rates (H. Rept. 450). p. 8834
5. VIRGIN ISLANDS. Passed as reported H. R. 4750, to amend section 6(a) of the Virgin Islands Corporation Act so as to increase the borrowing authority of the Virgin Islands Corp. p. 8824



6. PEACE CORPS. Rep. Reuss discussed the roots of the Peace Corps, quoting Emerson, Thoreau, William James, and the Roosevelts, and saying "The Congress, by giving the Peace Corps a legislative foundation, can do its part in directing the American tradition of service to the challenge of the 1960's." pp. 8824-6

7. PROPERTY. Received from GSA a proposed bill to "amend section 109 of the Federal Property and Administrative Services Act of 1949, as amended, so as to remove the limitation on the maximum capital of the general supply funds"; to Government Operations Committee. p. 8833

#### ITEMS IN APPENDIX

8. FARM PROGRAM. Rep. St. George inserted an article from the American Agriculturist, "Agricultural Act of 1961," analyzing the omnibus farm bill. pp. A4028-9

Rep. Breeding inserted a resolution of the Trego County (Kan.) Farmers Union commending Secretary Freeman for his efforts in getting the feed grain bill passed and urging support for enactment of wheat legislation. p. A4030

9. SUGARBEETS; RECLAMATION. Extension of remarks of Rep. Saylor urging increased domestic quotas for sugarbeet producers and opposing construction of the Burns Creek power project in southeastern Idaho as "unnecessary, uneconomical, and a distortion of traditional concepts of reclamation." pp. A4007-8

10. CONSERVATION; FORESTRY. Rep. Ullman inserted an editorial, "Secretary Udall's Promise," quoting Secretary Udall as stating that he and Secretary Freeman were working together in "Formulating a comprehensive Federal recreational lands program and working to eliminate conflicts in fish and wildlife programs so that an increased and improved wildlife conservation effort may be made." pp. A4023-4

11. ELECTRIFICATION. Rep. Younger inserted an editorial stating that Clyde T. Ellis, general manager of the NRECA, "is disappointed that President Kennedy has not initiated a 'bold new forward thrust' to get Washington more deeply into the electricity-generating business. He views with alarm that the Soviet Union is at work on a 'mighty power generation and transmission pool,' and he claims that this Red program is partly in operation." p. A4015

12. FEDERAL SPENDING. Rep. Derounian inserted an editorial quoting former President Eisenhower as stating that "I believe deeply that continuing deficit spending is immoral." p. A3977

13. FOREIGN AID. Rep. Derwinski inserted an editorial, "More Aid, Long Term," opposing instituting a long-term foreign aid program. p. A3979  
Rep. McIntire inserted an editorial, "Can You Buy Peace and Prosperity?," criticizing the President's foreign aid proposal. p. A4019

14. HOUSING. Rep. Derounian inserted an editorial, "Sand Castles," criticizing the President's proposed housing bill as an effort "to build castles for everyone." pp. A3987-8

15. PEACE CORPS. Rep. Doyle inserted an editorial, "Flying Blind," criticizing the establishment of a Peace Corps to assist underdeveloped nations. p. A3994  
Rep. Brademas inserted an address by R. Sargent Shriver discussing operations and activities of the Peace Corps. pp. A4010-11



purchase the smaller tractors and the originally requested \$15 million for the larger ones. The smaller sum, however, does not in any way make it a more palatable deal for me. It is still outright blackmail, and there have already been indications that the North Vietnamese will be asking a price for any American-trained guerrillas captured in that area if the Castro deal is consummated.

#### TREASURY AND POST OFFICE DEPARTMENTS APPROPRIATION BILL, 1962

Mr. GARY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5954) making appropriations for the Treasury and Post Office Departments, and the Tax Court of the United States for the fiscal year ending June 30, 1962, and for other purposes, with Senate amendments thereto, disagree to the amendments of the Senate and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

The Chair hears none and appoints the following conferees: Messrs. GARY, PASSMAN, CANNON, PILLION, and TABER.

#### REYNOLDS FEAL CORP., ET AL.

Mr. LANE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5178) for the relief of the Reynolds Feal Corp., New York, N.Y., and the Lydick Roofing Co., Fort Worth, Tex., with a Senate amendment thereto and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Page 2, line 10, after "claims" insert: "Provided, however, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000".

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

#### JOHN NAPOLI

Mr. LANE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1346) for the relief of John Napoli, with Senate amendments thereto and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments as follows:

(1) Page 1, line 7, after "claims" insert "of any nature whatsoever,".

(2) Page 1, lines 8 and 9, strike out "for personal injuries, loss of and damage to his personal property, and other loss and damage" and insert "arising from or".

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

Mr. MILLS. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means may have until midnight tonight to file a report on the bill (H.R. 7446) and minority views.

The SPEAKER. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

#### THE CONSENT CALENDAR

The SPEAKER. This is the day for the calling of the Consent Calendar. The Clerk will call the first bill on the calendar.

#### DELAWARE RIVER BASIN COMPACT

The Clerk called the resolution (H.J. Res. 225) to grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes.

The SPEAKER. Is there objection to the present consideration of the resolution?

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that this joint resolution may be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

#### AMENDING SUBVERSIVE ACTIVITIES CONTROL ACT OF 1950

The Clerk called the bill (H.R. 5751) to amend the Subversive Activities Control Act of 1950 so as to require the registration of certain additional persons disseminating political propaganda within the United States as agents of a foreign principal, and for other purposes.

The SPEAKER pro tempore (Mr. ALBERT). Is there objection to the present consideration of the bill?

Mr. LINDSAY. Mr. Speaker, I ask unanimous consent that this bill may be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

#### AMENDING THE GENERAL BRIDGE ACT OF 1946

The Clerk called the bill (H.R. 5963) to amend the General Bridge Act of 1946 with respect to the vertical clearance of bridges to be constructed across the Mississippi River.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. PELLY. Mr. Speaker, I ask unanimous consent that this bill may be passed over without prejudice.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

#### SUITS AGAINST MINERAL ENTRIES IN ALASKA

The Clerk called the bill (H.R. 2924) to repeal an act entitled "An act extending the time in which to file adverse claims and institute adverse suits against mineral entries in the district of Alaska," approved June 7, 1910 (36 Stat. 459).

There being no objection, the Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act extending the time in which to file adverse claims and institute adverse suits against mineral entries in the district of Alaska," approved June 7, 1910 (36 Stat. 459), is hereby repealed.*

With the following committee amendment: "Page 1, after line 6, add a new section to read as follows:

"SEC. 2. This Act shall not be applicable to adverse claims on applications for patents filed prior to the effective date of this Act, but the 8-month period heretofore provided for such claims and the 60-day period heretofore provided for adverse suits shall continue in effect with respect thereto."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### EXPANSION OF FUNCTIONS OF THE COAST GUARD

The Clerk called the bill (H.R. 6845) to amend title 14 of the United States Code to provide for an expansion of the functions of the Coast Guard.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of title 14, United States Code, is amended by inserting the words "shall engage in oceanographic research on the high seas and in waters subject to the jurisdiction of the United States;" before the last clause of this section which reads "and shall maintain a state of readiness to function as a specialized service in the Navy in time of war."*

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### RELIEF FOR CERTAIN ENLISTED MEN OF THE AIR FORCE

The Clerk called the bill (H.R. 2750) to provide for the relief of certain enlisted members of the Air Force.

There being no objection, the Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all payments of basic allowance for subsistence heretofore made to enlisted members of the Air Force who were assigned to Head-*



quarters, Air Research and Development Command, at Baltimore, Maryland, during the period beginning on July 1, 1955, and ending on June 30, 1958, and which are otherwise correct, are validated to the extent that those allowances were paid, because the military commander concerned determined that no Government mess was available to those enlisted members under regulations prescribed under section 301 of the Career Compensation Act of 1949, as amended (37 U.S.C. 251). Any enlisted member who has made a repayment to the United States of the amount so paid to him as a basic allowance for subsistence is entitled to be paid the amount involved, if otherwise proper.

SEC. 2. The Comptroller General of the United States or his designee, shall relieve disbursing officers, including special disbursing agents, of the Army, Navy, and Air Force from accountability or responsibility for any payments described in section 1 of this Act, and shall allow credits in the settlement of the accounts of those officers or agents for payments which are found to be free from fraud and collusion.

SEC. 3. Appropriations available to the Department of the Air Force for the pay and allowances of military personnel are available for payments under this Act.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### NATIONAL AMERICAN GUILD OF VARIETY ARTISTS WEEK

The Clerk called (S.J. Res. 34) designating the week of October 9-15, 1961, as National American Guild of Variety Artists Week.

There being no objection, the Clerk read the Senate joint resolution, as follows:

Whereas for many years performers and artists in the variety field have circled the globe with their hearts and talents to bring entertainment and joy to all places and under all conditions; and

Whereas performers and artists in the variety field have unstintingly given of their services to the American people in behalf of every cause regardless of race, creed, or color: now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 9-15, 1961, be designated as National American Guild of Variety Artists Week, in recognition of the outstanding services of performers and artists in the variety field to the American people.*

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### DESIGNATING POLICE WEEK AND PEACE OFFICERS MEMORIAL DAY

The Clerk called Senate joint resolution (S.J. Res. 65) designating the week of May 20 1961, as Police Week and designating May 15, 1961, as Peace Officers Memorial Day.

There being no objection, the Clerk read the Senate joint resolution, as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 14-20, 1961, is hereby designated as Police Week, in recognition of the contribution the police officers of America have made to our civilization through their*

*dedicated and selfless efforts in enforcing the laws of our cities, counties, and States and of the United States regardless of the peril or hazard to themselves, and May 15th is hereby designated as Peace Officers Memorial Day in honor of the Federal, State, and municipal peace officers who have been killed or disabled in line of duty. Through their enforcement of our laws our country has internal freedom from fear of the violence and civil disorders that is presently affecting other nations.*

To this end the President is authorized and requested to issue a proclamation inviting the people of the United States to observe such period, with appropriate ceremonies and activities, as a tribute to the men and women who, night and day, stand guard in our midst to protect us through enforcement of our laws, and to honor those who have lost their lives in service to the community.

With the following committee amendments:

Page 1, line 3, strike "May 14-20, 1961" and insert in lieu thereof "May 13-19, 1962".

Page 1, line 8, strike "15th" and insert in lieu thereof "14th".

The committee amendments were agreed to.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed.

The title was amended to read as follows: "Joint resolution designating the week of May 13-19, 1962, as Police Week and designating May 14, 1962, as Peace Officers Memorial Day.

A motion to reconsider was laid on the table.

#### STATUS OF CIRCUIT AND DISTRICT JUDGES RETIRED FROM REGULAR ACTIVE SERVICE

The Clerk called the bill (H.R. 5255) to clarify the status of circuit and district judges retired from regular active service.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. GROSS. Mr. Speaker, reserving the right to object, I would like to ask a question or two concerning this bill.

This is limited to rehearing cases where retired Federal judges are sent back?

Mr. CELLER. That is correct. The judge sat on the original case and he was unable to sit on the rehearing of the case on appeal en banc.

Mr. GROSS. May I ask the gentleman what is meant by the phrase "en banc"?

Mr. CELLER. Circuit courts sometimes consist of five judges. When you say "en banc," the five judges sit.

Mr. GROSS. I thank the gentleman.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (b) of section 43 of title 28, United States Code, is amended to read as follows:*

*"(b) Each court of appeals shall consist of the circuit judges of the circuit in regular active service. The circuit justice and justices or judges designated or assigned*

*shall also be competent to sit as judges of the court."*

(b) Paragraph (c) of section 46 of title 28, United States Code, is amended to read as follows:

*"(c) Cases and controversies shall be heard and determined by a court or division of not more than three judges, unless a hearing or rehearing before the court in banc is ordered by a majority of the circuit judges of the circuit who are in regular active service. A court in banc shall consist of all circuit judges in regular active service. A circuit judge of the circuit who has retired from regular active service shall also be competent to sit as a judge of the court in banc in the rehearing of a case or controversy if he sat in the court or division at the original hearing thereof."*

SEC. 2. Paragraph (b) of section 132 of title 28, United States Code, is amended to read as follows:

*"(b) Each district court shall consist of the district judge or judges for the district in regular active service. Justices or judges designated or assigned shall be competent to sit as judges of the court."*

SEC. 3. The first sentence of section 332 of title 28, United States Code, is amended to read as follows: "The chief judge of each circuit shall call, at least twice in each year and at such places as he may designate, a council of the circuit judges for the circuit, in regular active service, at which he shall preside."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### WRIGHT BROTHERS DAY

The Clerk called House Joint Resolution 109 designating the 17th day of December in each year as "Wright Brothers Day."

There being no objection, the Clerk read the House joint resolution as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the 17th day of December in each year is hereby designated as "Wright Brothers Day", in commemoration of the first successful flights in a heavier-than-air, mechanically propelled airplane, which were made by Orville and Wilbur Wright on December 17, 1903, near Kitty Hawk, North Carolina. The President is authorized and requested to issue annually a proclamation inviting the people of the United States to observe such day with appropriate ceremonies and activities.*

With the following committee amendments:

Page 1, line 3, strike the words "in each year" and insert in lieu thereof ", 1961".

Page 1, line 9, strike the word "annually".

The committee amendments were agreed to.

The House joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended to read as follows: "Joint resolution designating the 17th day of December 1961, as 'Wright Brothers Day'."

A motion to reconsider was laid on the table.

#### AMENDING THE INDIAN CLAIMS COMMISSION ACT

The Clerk called the bill (H.R. 4109) to terminate the existence of the Indian







June 27, 1961

7. EDUCATIONAL EXCHANGES. Began debate on S. 1154, to provide for the improvement and strengthening of the educational and cultural exchange program. pp. 10576, 10580-5
8. EDUCATION. Sen. Mundt and others urged enactment of legislation to extend the program of Federal aid to schools in Federally-impacted areas. pp. 10552-3
9. FOREIGN TRADE. Sen. Javits inserted a newspaper article, "New Policy Due on Foreign Trade," stating that "The Kennedy Administration must soon get to work on the detailed drafting of its own foreign trade policy." pp. 10556-7
10. AREA REDEVELOPMENT. Sen. Ervin inserted his statement commending the area redevelopment program. p. 10559
11. HOUSING. Sen. Sparkman commended the conference report on the housing bill and urged early consideration of the report. pp. 10596-7  
Sen. Bush criticized the conference report on the housing bill and urged the Senate to reject the report and instruct the Banking and Currency Committee to report "to the floor a new housing bill which recognizes the need for fiscal prudence in domestic programs." pp. 10615-7
12. NOMINATION. Received the nomination of Robert E. Hampton to be a Civil Service Commissioner. p. 10619
13. LEGISLATIVE PROGRAM. Sen. Mansfield announced that the conference report on the housing bill, and H. R. 7677, to increase the public debt limit, will be considered today, and that S. 1154, the educational exchange bill, will be considered on Thurs. p. 10610

HOUSE

14. HOUSING; FARM LOANS. Received the conference report on S. 1922, the omnibus housing bill (H. Rept. 602), retaining the Senate amendment making lessees of farmland eligible for farm housing assistance under title V of the Housing Act of 1949. For additional items of interest to this Department, see Digest 95. pp. 10644-60, 10668
15. VETERANS' LOANS. Agreed to the Senate amendment, with an amendment by Rep. Teague, Tex., on H. R. 5723, to extend the veterans' guaranteed and direct home loan program. pp. 10620-1
16. APPROPRIATIONS. Began debate on H. R. 7851, the Defense appropriation bill. pp. 10621-43  
The Appropriations Committee was granted until midnight Mon., July 10, to file a report on the D. C. appropriation bill. p. 10644
17. ATOMIC ENERGY. The Rules Committee reported a resolution for consideration of H. R. 7576, to authorize appropriations for the Atomic Energy Commission. p. 10668
18. WATER POLLUTION CONTROL. Conferees were appointed on H. R. 6441, to amend the Federal Water Pollution Control Act to provide for a more effective program of water pollution control. Senate conferees have already been appointed. pp. 10643-4
19. RECLAMATION. Rep. Aspinall discussed the Federal reclamation programs and said, "Reclamation farms are more than twice as productive, acre for acre, as other farms." pp. 10662-5



20. PUBLIC DEBT. Reps. Dominick and Battin criticized the proposal to raise the public debt limit. pp. 10666-7
21. PERSONNEL. The Post Office and Civil Service Committee reported with amendments H. R. 2555, to provide for allotment and advancement of pay with respect to civilian employees of the U. S. in cases of emergency evacuation in overseas areas (H. Rept. 584). p. 10668  
The Rules Committee reported a resolution for consideration of H. R. 6141, to amend the act of September 1, 1954, in order to limit to cases involving the national security the prohibition on payment of annuities and retired pay to officers and employees of the U. S. p. 10668
22. WATERSHEDS. The Agriculture Committee voted to report with amendments (but did not actually report) H. R. 3462, to amend the Watershed Protection and Flood Prevention Act to permit certain new organizations to sponsor works of improvement thereunder. p. D511
23. GRAPES AND PLUMS. The Agriculture Committee voted to report (but did not actually report) H. R. 6253, to permit exemption of certain grapes and plums from the act of September 2, 1960, requiring standards for exported grapes and plums. p. D511
24. EDUCATION. The Education and Labor Committee "Met in executive session and ordered a clean bill introduced in the House in lieu of H. R. 6774, to extend and improve the National Defense Education Act." p. D511
25. DELAWARE RIVER BASIN. The Rules Committee granted a rule for the consideration of H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin Compact. p. D512
26. LEGISLATIVE PROGRAM. Rep. McCormack announced that the conference report on the housing bill will be considered today, June 28, and probably H. R. 7673, to amend the Tariff Act of 1930 to provide for the free importation of wild animals and wild birds which are intended for exhibition in the U. S. (p. 10660). Agreed to consider the D. C. appropriation bill Wed., July 12 (p. 10641).

#### ITEMS IN APPENDIX

27. ELECTRIFICATION. Extension of remarks of Rep. Van Zandt inserting an editorial "Public Power Advocates Wedge Into A-Energy Field." pp. A4830-2
28. RESEARCH. Extension of remarks of Sen. Anderson inserting two articles favoring expansion and development of saline water conversion programs. pp. A4832-3
29. SOCIAL SECURITY. Extension of remarks of Rep. Marshall inserting an article, "Social Security Gives Farm People Independence," and stating that it is an interesting study on the attitude of farmers toward social security. pp. A4836-7
30. BUDGET; PUBLIC DEBT. Speech in the House by Rep. Udall during debate on the bill to increase the public debt limit. pp. A4842-4
31. PERSONNEL. Extension of remarks of Rep. Daddario commending and inserting a review of Dr. Earl Lindveit's book, "Scientists in Government." p. A4845







15. WATER RESOURCES. The Rules Committee granted a rule for the consideration of H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin Compact. p. 10724  
~~The Public Works Committee voted to report (but did not actually report) H. R. 30, the Northeastern Water and Related Land Resources Compact. p. D520~~
16. ROADS; FORESTRY. The Interior and Insular Affairs Committee voted to report (but did not actually report) with amendments H. R. 6067, to make a survey of a proposed national parkway from the Blue Ridge Parkway at Tennessee Ball or Beech Gap Southwest and running into Georgia (the proposed parkway would traverse lands in National Forests). p. D520
17. LANDS. The Interior and Insular Affairs Committee voted to report (but did not actually report) S. 54, to grant 81 acres of public domain to the Cocopah Indians in Arizona. p. D520
18. LEGISLATIVE PROGRAM. Rep. McCormack announced that today, Thurs., "there will be the continuing resolution out of the Appropriations Committee." p. 10713
- ITEMS IN APPENDIX
19. FOOD FOR PEACE. Extension of remarks of Sen. Ellender inserting his speech before the American Food Council in which he said, "Emphasis should remain on distribution of surplus commodities and we should not encourage over-production for Food for Peace." pp. A4885-6
20. PEACE CORPS. Extension of remarks of Rep. Rodino inserting two articles, "Peace Corpsmen Introduced to Task and Taskmaster" and "The First Peace Recruits -- A New Kind of Army to Fight a New Kind of War." pp. A4886-7
21. FORESTS; WILDLIFE. Extension of remarks of Rep. Westland inserting an article "Harvesting Game on West Coast Tree Farms." pp. A4894-6
22. TEXTILES. Extension of remarks of Rep. Hemphill inserting an editorial charging "The fine promises Candidate Kennedy made to the American textile industry have been shot down by President Kennedy's State Department." p. A4896
23. BROOMS. Extension of remarks of Rep. Jarman saying, "this fantastic decrease /in the production of broomcorn/ is a direct result of the importation of foreign-made brooms, which has depressed the American market to the extent that it has become unprofitable to continue the cultivation of broomcorn." pp. A4896-7
24. GRAIN STORAGE. Extension of remarks of Rep. Jensen inserting a letter saying in part, "I am quite sure that the administrators in the USDA do not thoroughly realize the problem of storage of grain." pp. A4900-1
25. RESEARCH. Extension of remarks of Sen. Wiley saying "In almost all fields of human endeavor -- agriculture, industry, homelife, health, and all others -- vast programs of research are essential to opening the door to new progress," and inserting an article on research. pp. A4903-4
26. URBAN AFFAIRS. Extension of remarks of Rep. Elliot inserting a statement saying, "I greatly admire the dedicated work of the Department of Agriculture, and I am hopeful that the problems of our towns and cities can receive the same top level Federal attention through the creation of a Department of Urban Affairs." pp. A4919-21



27. HOUSING. Extension of remarks of Rep. Broyhill criticizing the omnibus housing bill saying, "Sufficient public attention has not been given ... to these features which over a period of years would help to destroy our historic free enterprise system." pp. A4922-3
28. SURPLUS COMMODITIES. Rep. Alger criticized the proposed permanent extension of Public Law 480 and inserted an article, "Foreign Trade Versus Foreign Welfare." pp. A4924-5

BILLS INTRODUCED

29. EDUCATION. H. R. 7904, by Rep. Bailey, to extend and improve the National Defense Education Act; to Education and Labor Committee.  
H. R. 7907, by Rep. Lindsay, to amend the National Defense Education Act of 1958 in order to extend its duration for a period of 5 years; to Education and Labor Committee.
30. SOIL BANK. H. R. 7906, by Rep. Breeding, to authorize the Secretary of Agriculture to extend conservation reserve contracts; to Agriculture Committee. Remarks of author. p. 10723
31. RESEARCH. H. R. 7916, by Rep. Aspinall (by request), to expand and extend the saline water conversion program being conducted by the Secretary of the Interior; to Interior and Insular Affairs Committee.
32. SURPLUS COMMODITIES. H. R. 7918, by Rep. Latta, to amend the Agricultural Act of 1956, as amended, and the Agricultural Act of 1949, as amended, to prohibit the subsidized export of any agricultural commodity to Communist nations and to prohibit sales by the Commodity Credit Corporation of surplus agricultural commodities to such nations at prices less than those prices available to American consumers; to Agriculture Committee.
33. SUGAR. H. Res. 364, by Rep. Rogers, Tex., to authorize an investigation for the purpose of determining whether the public interest would be served by modifying or discontinuing the sugar program conducted under the Sugar Act of 1948; to Rules Committee.
34. HONEY BEES. S. 2158, by Sen. Ellender (by request), to amend the act relating to the importation of adult honey bees; to Agriculture and Forestry Committee.
35. LANDS. S. 2159, by Sen. McClellan (by request), to authorize reimbursement to owners and tenants of certain lands or interests therein acquired by the United States for certain moving expenses and losses and damages; to Government Operations Committee. Remarks of author. pp. 10728-9
36. PROPERTY. S. 2160, by Sen. McClellan, to amend section 109 of the Federal Property and Administrative Services Act of 1949, as amended, relative to the general supply fund; to Government Operations Committee. Remarks of author. pp. 10729-30
37. NATIONAL PARKS. S. 2164, by Sen. Magnuson (for himself and others), to authorize the Secretary of the Interior to cooperate with the First World Conference on National Parks; to Interior and Insular Affairs Committee.

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COMMITTEE HEARINGS ANNOUNCEMENTS JUNE 29: - Farm bill, H. Agriculture (exec).  
Foreign aid bill, H. Foreign Affairs (exec).



## SERBIAN NATIONAL HOLIDAY

(Mr. DERWINSKI asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. DERWINSKI. Mr. Speaker, June 28 is the anniversary of the Serbian National Holiday, the anniversary of the Battle of Kossovo. This tragic battle fought on June 28, 1389, resulted in the Turkish horde destroying the brave forces of the Serbian people, and as a result, kept them in bondage for almost five centuries.

The Serbian people persevered, however, and eventually regained their freedom. However, the tragic consequences of World War II, and the imposition of communistic Soviet imperialism have once again placed the Serbian people under foreign bondage.

At this time it is well for us to express the fervent wish that the anniversary of the Battle of Kossovo may rekindle in the hearts of the Serbian people and all who share and understand their feeling on the loss of independence, their consecration to struggle against the oppressive Communist rulers of their homeland and never relent until once again the Serbian people truly will be free.

Mr. Speaker, it is well at this time for me to point out to the House, that the Rules Committee has before it, subject I hope to speedy action, various resolutions creating a special House Committee on Captive Nations. In the resolution which I and many other Members have introduced, Yugoslavia is listed as a captive nation and most appropriately so, since we realize the people of that unfortunate country are devoted to their freedom, are captives of communism and, that despite official denials, the communism of Tito and the communism of the Kremlin are one basic operation.

Mr. Speaker, let me repeat that the observance of the Serbian national holiday and the continued display of perseverance on the part of the Serbian, American leaders, and our realization that all the other American groups working to preserve the spirit of freedom in their own oppressed homelands, join in urging that the Congress, in pausing to note this day in history, reaffirm the need for the continuing exposé and condemnation of Communist colonialization and imperialism. This is necessary so that we may recapture the initiative in the cold war and produce the circumstances whereby the brave Serbian people and the other unfortunate victims of communism will once again share the priceless heritage of freedom.

EXTENDING SOIL BANK  
CONTRACTS

(Mr. BREEDING (at the request of Mr. RYAN) was given permission to extend his remarks at this point in the RECORD.)

Mr. BREEDING. Mr. Speaker, today I am introducing legislation to authorize the Department of Agriculture to extend the present soil bank contracts, which will begin expiring this year and

continue to expire on through the year 1969.

Unless something is done, the land covered by expiring contracts will be put into production, and this will add to the problem of surplus production now besetting agriculture.

I would like to bring to the attention of my colleagues the fact that my bill covers all soil bank contracts, except those for the establishment of tree covers. A number of farmers in my district have discussed with me the expiration of these contracts and what they are to do with the land upon the termination of same. It seems only fair to me that they should be allowed to continue to be covered in a soil bank program for the time being or until we are able to work out our surplus problems and will need land to be brought back into production.

Unless Congress takes affirmative action at this session, there will be land coming back into production and the Department of Agriculture will be powerless to act.

## NATIONAL DEFENSE SCHOLARSHIPS

(Mr. RODINO (at the request of Mr. RYAN) was given permission to extend his remarks at this point in the RECORD.)

Mr. RODINO. Mr. Speaker, some time ago I introduced a bill, H.R. 4351, which I feel should be incorporated in H.R. 6774, the administration bill to amend the National Defense Education Act of 1958. What my bill proposes is a Federal scholarship program essentially the same as the scholarship programs originally contained in both the Senate and the House bills, as reported, back in 1958.

The bill would amend the National Defense Education Act, adding an additional title which would authorize \$17.5 million annually to provide for national defense scholarship of \$500, with an additional amount up to \$500 for those in need of such additional funds to continue their education at an institution of higher education, the exact amount to be determined by the extent of the student's need. In 1958 it was estimated that such a program would lead to average stipends of \$750. If this coverage of \$750 is applied to the overall annual appropriation of \$17.5 million in my bill it would provide 23,000 scholarships annually.

First time awards would be made each year for 4 years, with \$17.5 million authorized to be appropriated annually for this purpose. In addition, the scholarships would be for 4 years or such longer period as is normally required to complete the undergraduate curriculum which the recipient is pursuing, as in some engineering courses. Such funds as are necessary are authorized for those additional years of the scholarships.

The scholarships are to be awarded by State commissions on the basis of objective tests and other measures of aptitude and ability to pursue successfully a college curriculum, with special consideration to be given to those with superior capacity or preparation in science, mathematics, or a modern foreign lan-

guage. Funds are to be distributed to the States on the basis of their relative college-age population, ages 18 to 21.

All of the above provisions, as mentioned earlier, are essentially identical to the scholarship provisions in S. 4237 and H.R. 13247 as reported by their respective committees in 1958—the bills which became Public Law 85-864, the National Defense Education Act of 1958. I felt at that time that these provisions were urgently needed, and that it was a grave mistake to remove them from the bill as a result of floor action. I feel that today the need is even greater, and that the provisions should be restored to the law now, 3 years later.

During the hearings held by the committee on the administration's scholarship bill, speaker after speaker testified to the need for scholarships: to encourage the estimated 150,000 youths of outstanding ability annually who fail to continue their education, to assist those youths so financially handicapped that even loans are out of the question, and just to show Federal recognition of academic excellence. Both the Eisenhower and Kennedy administrations have recommended scholarships, and I feel it is time that we enact legislation to provide them.

I also feel strongly that such a program should be made part of the National Defense Education Act. We have had abundant evidence in the field of education alone of the evils of enacting a variety of bills aimed at the same end but not in one coherent piece of legislation and not administered efficiently by one office. The Federal graduate fellowship programs are so proliferated that it has been wryly surmised that no one in the Federal Government sees their overall scope, the areas of duplication, or the areas of need. The educational exchange programs have had the same problem, and now Senator FULBRIGHT is proposing legislation to unite the major programs into one coherent piece of legislation.

I do not feel that we should allow this proliferation to happen if we can help it. A Federal scholarship program would have aims, purposes, and methods very similar to other programs in the National Defense Education Act, and I feel should be a part of this law.

(Mr. RODINO (at the request of Mr. RYAN) was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

[Mr. RODINO'S remarks will appear hereafter in the Appendix.]

## SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. BYRNE of Pennsylvania, for 10 minutes today, and to revise and extend his remarks.

Mr. GEORGE P. MILLER, for 5 minutes today, and to revise and extend his remarks, and include extraneous matter.

Mr. HEMPHILL for 1 hour tomorrow.



## EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Appendix of the RECORD, or to revise and extend remarks, was granted to:

Mr. MACHROWICZ.

Mr. ROUSE in two instances and to include extraneous matter.

Mr. BROWN and to include a letter from the Barberton, Ohio, Board of Education.

Mr. MINSHALL and to include an editorial.

Mr. LAIRD and to include extraneous matter in the remarks he will make on the defense appropriation bill in the Committee on the Whole today.

Mr. TOLL and include extraneous matter.

Mr. SCHERER to extend his remarks following the vote on the Defense Department appropriation bill.

Mr. McDONOUGH in four instances, in each to include extraneous matter.

Mr. LESINSKI.

(The following Members (at the request of Mr. RYAN) and to include extraneous matter:)

Mr. TOLL.

Mr. JARMAN.

Mr. KILGORE.

Mr. RODINO.

Mr. HULL in two instances.

Mr. ELLIOTT in two instances.

Mr. HEMPHILL in two instances.

Mr. MULTER in three instances.

Mr. McDOWELL.

Mr. NIX.

Mr. BRADEMAs in 10 instances.

Mrs. BLITCH.

Mr. RHODES of Pennsylvania in three instances.

Mr. GALLAGHER.

Mr. HOLIFIELD.

Mr. TEAGUE of Texas in six instances.

Mr. REUSS in six instances.

Mr. RYAN.

(The following Members (at the request of Mr. DERWINSKI) and to include extraneous matter:)

Mr. NYGAARD.

Mr. CEDERBERG.

Mr. SAYLOR.

Mr. FORD in two instances.

Mr. WESTLAND.

Mr. BATES.

Mr. DOOLEY.

Mr. ALGER in 10 instances.

Mr. BECKER in three instances.

Mr. GOODELL in two instances.

Mr. CURTIS of Massachusetts.

Mr. JENSEN.

Mr. CONTE.

Mr. MATHIAS.

Mr. KEARNS.

Mr. COLLIER in six instances.

Mr. SCHERER in four instances.

Mr. WIDNALL in two instances.

Mr. CUNNINGHAM.

Mr. BROYHILL in five instances, in one to include extraneous matter, notwithstanding the fact that it exceeds the limit and is estimated by the Public Printer to cost \$432.

Mr. FULTON in five instances.

Mr. GUBSER.

## SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's

table and, under the rule, referred as follows:

S. 857. An act to provide for the establishment of Cape Cod National Seashore; to the Committee on Interior and Insular Affairs.

S. 1725. An act to permit the establishment of through service and joint rates for carriers serving Alaska or Hawaii and the other States and to establish a joint board to review such rates; to the Committee on Interstate and Foreign Commerce.

## ENROLLED BILLS SIGNED

Mr. BURLESON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4500. An act to donate to the heirs of Anthony Bourbonnais approximately thirty-six one-hundredths acre of land in Pottawatomie County, Okla.;

H.R. 4913. An act to amend the act of August 7, 1946, relating to the District of Columbia hospital center to extend the time during which appropriations may be made for the purposes of that act; and

H.R. 7712. An act making supplemental appropriations for the fiscal year ending June 30, 1961, and for other purposes.

## BILL PRESENTED TO THE PRESIDENT

Mr. BURLESON, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H.R. 6713. An act to amend certain laws relating to Federal-aid highways to make certain adjustments in the Federal-aid highway program, and for other purposes.

## ADJOURNMENT

Mr. RYAN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 39 minutes p.m.), the House adjourned until tomorrow, Thursday, June 29, at 12 o'clock noon.

## EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1075. A letter from the Comptroller General of the United States, transmitting a report on the review of the military assistance program for Spain, as administered by the Military Assistance Advisory Group to Spain; to the Committee on Government Operations.

1076. A letter from the Secretary of the Interior, relative to determinations relating to construction payments due the United States for the period 1963 through 1967 from the Wellton-Mohawk Irrigation and Drainage District, Wellton-Mohawk division, Gila project, Arizona, pursuant to Public Law 86-308; to the Committee on Interior and Insular Affairs.

1077. A letter from the Attorney General, transmitting the report of the Attorney General on the administration of the Subversive Activities Control Act of 1950, pursuant to the Subversive Activities Control Act of 1950,

as amended; to the Committee on Un-American Activities.

1078. A letter from the Secretary of the Army, transmitting a letter from the Chief of Engineers, Department of the Army, dated March 31, 1961, submitting a report, together with accompanying papers and illustrations, on an interim report on Cache River, Ill., requested by resolutions of the Committees on Public Works, U.S. Senate and House of Representatives, adopted March 4, 1950, and June 27, 1950. It is also in full response to resolution of the Committee on Public Works, House of Representatives, adopted July 26, 1951; to the Committee on Public Works.

1079. A letter from the Comptroller General of the United States, transmitting the report on our examination of the economic and technical assistance program for Iran as administered by the International Cooperation Administration (ICA) of the Department of State under the mutual security program for fiscal years 1956 through 1960; to the Committee on Government Operations.

1080. A letter from the Assistant Secretary of the Air Force, transmitting a draft of a proposed bill entitled "A bill to authorize the Secretaries of the military departments to make emergency payments to persons who are injured or whose property is damaged as a result of aircraft or missile accidents, and for other purposes"; to the Committee on Armed Services.

## REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. O'NEILL: Committee on Rules. House Resolution 363. Resolution for consideration of House Joint Resolution 225 joint resolution to grant the consent of Congress to the Delaware River Basin compact and to enter into such compact on behalf of the United States, and for related purposes; without amendment (Rept. No. 603). Referred to the House Calendar.

Mr. JONES of Missouri: Committee on House Administration. S. 1644. An act to provide for the indexing and microfilming of certain records of the Russian Orthodox Greek Catholic Church in Alaska in the collections of the Library of Congress; with amendment (Rept. No. 608). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Missouri: Committee on House Administration. H.R. 4659. A bill to establish a National Armed Forces Museum Advisory Board of the Smithsonian Institution, to authorize expansion of the Smithsonian Institution's facilities for portraying the contributions of the Armed Forces of the United States, and for other purposes; without amendment (Rept. No. 609). Referred to the Committee of the Whole House on the State of the Union.

Mr. JONES of Missouri: Committee on House Administration. House Joint Resolution 392. Joint resolution to amend the joint resolution of March 25, 1953, relating to electrical and mechanical office equipment for the use of Members, officers, and committees of the House of Representatives to provide that Members having constituencies of 500,000 shall be entitled to an additional \$500 worth of equipment; to increase the number of electric typewriters which may be furnished Members; and for other purposes; without amendment (Rept. No. 610). Ordered to be printed.

Mr. MILLS: Committee of conference. H.R. 6027. A bill to improve benefits under the old-age, survivors, and disability insurance program by increasing the minimum

87TH CONGRESS  
1ST SESSION

# H. RES. 363

[Report No. 603]

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IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 1961

Mr. O'NEILL, from the Committee on Rules, reported the following resolution;  
which was referred to the House Calendar and ordered to be printed

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## RESOLUTION

1      *Resolved*, That upon the adoption of this resolution it  
2      shall be in order to move that the House resolve itself into  
3      the Committee of the Whole House on the State of the  
4      Union for the consideration of the resolution (H.J. Res.  
5      225) to grant the consent of Congress to the Delaware  
6      River Basin Compact and to enter into such compact on  
7      behalf of the United States, and for related purposes, and  
8      all points of order against said resolution are hereby waived.  
9      After general debate, which shall be confined to the resolu-  
10     tion and continue not to exceed two hours, to be equally  
11     divided and controlled by the chairman and ranking minority  
12     member of the Committee on the Judiciary, the resolution



87TH CONGRESS  
1ST SESSION

# H. RES. 363

[Report No. 603]

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## RESOLUTION

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Providing for the consideration of H.J. Res.  
225, to grant the consent of Congress to the  
Delaware River Basin Compact and to enter  
into such compact on behalf of the United  
States, and for related purposes.

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By Mr. O'NEILL

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JUNE 28, 1961

Referred to the House Calendar and ordered to be  
printed







16. TRANSPORTATION. Passed with an amendment S. 2154, extending until September 15, 1961, authority for dual-rate contract agreements by steamship conferences. pp. 10961-2
17. WATER RESOURCES. Passed with an amendment H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin Compact. pp. 10975-11000
18. FOREIGN TRADE. Rep. Mathias discussed the possible sale of "subsidized farm products including cotton textiles and other farm products to the Soviet Union and its European bloc," and said "I am shocked to learn that Secretary Freeman and Secretary Hodges have committed the Government virtually to deliver American tax dollars to the Communist countries." p. 10973
19. EDUCATION. Rep. Frelinghuysen inserted a "Report on American Education," including discussion of land-grant colleges, the National School Lunch Act, and depressed areas legislation. pp. 11005-60
20. LEGISLATIVE PROGRAM. Rep. McCormack announced that there is no legislative program for next week (p. 10966). The House agreed to adjourn from Thurs., June 29, to Mon., July 3, from Mon. to Thurs., July 6, and from Thurs. to Mon., July 10. p. 11004
21. ADJOURNED until Mon., July 3. p. 11004

NOTE: Not all of the House proceedings were printed in the Congressional Record of June 29. The remaining proceedings of the House will be printed in the next issue of the Record.

#### BILLS INTRODUCED

22. PROPERTY. S. 2173, by Sen. McCarthy (for himself and Sen. Humphrey), to provide that excess personal property of the United States may be donated to the States for the promotion of fish and wildlife management activities; to Government Operations Committee.
23. WETLANDS. S. 2175, by Sen. Humphrey, to promote the conservation of migratory waterfowl by the acquisition of wetlands and other essential waterfowl habitat; to Commerce Committee. Remarks of author. p. 10817
24. TRADE AGREEMENT. S. 2176, by Sen. Bridges (for himself and others), to provide for the inclusion of certain producers and growers of raw materials as interested parties in escape clause proceedings under the Trade Agreements Extension Act of 1951, to make mandatory the recommendations of the U. S. Tariff Commission in such proceedings; to Finance Committee. Remarks of Sen. Bridges. pp. 10839-43
25. RECLAMATION. S. 2179, by Sen. Anderson, to amend section 9(d)(1) of the Reclamation Project Act of 1939 (53 Stat. 1187; 43 U. S. C. 485), to make additional provision for irrigation blocks; to Interior and Insular Affairs Committee. Remarks of author. pp. 10817-8
26. ADMINISTRATIVE PRACTICE. S. 2189, by Sen. Keating, to establish an Office of Federal Administrative Practice and to provide for the appointment and administration of a corps of Hearing Commissioners; to Government Operations Committee.



BILLS APPROVED BY THE PRESIDENT

27. ROADS. H. R. 6713, to provide for completion of the national system of interstate and defense highways. Approved June 29, 1961 (Public Law 87-61).
28. HAY HARVESTING. S. 2113, to amend the Soil Bank Act so as to authorize the Secretary of Agriculture to permit the harvesting of hay on conservation reserve acreage where necessary to alleviate hardship caused by drought or other natural disaster. Approved June 29, 1961 (Public Law 87-62).
29. TRAVEL SERVICE. S. 610, to strengthen the domestic and foreign commerce of the United States by providing for the establishment of a United States Travel Service within the Department of Commerce. Approved June 29, 1961 (Public Law 87-63).

PRINTED HEARINGS RECEIVED IN THIS OFFICE

30. FARM PROGRAM. S. 1643, part 2, Agricultural Act of 1961. S. Agriculture and Forestry Committee.
31. CCC. Investigation of Commodity Credit Corporation. 86th Congress. Part 4. H. Government Operations Committee.

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COMMITTEE HEARINGS ANNOUNCEMENTS:

June 30: Foreign aid appropriations, H. Appropriations (exec).

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chief highway engineer of my State, presumably an opinion that may well be shared by the chief highway engineers of other Middle Western States.

Mr. SCHERER. Mr. Chairman, will the gentleman yield?

Mr. ANDERSON of Illinois. I yield to the gentleman from Ohio.

Mr. SCHERER. The gentleman understands that testimony similar to that which he has read from the highly respected highway engineer of your State, and a friend of mine, was before the committee and considered by the committee. Let me say that the gentleman from Ohio is as much interested in preserving the integrity of the highway trust fund as any Member of the House or any highway engineer.

Mr. ANDERSON of Illinois. I am sure he is.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. Bass of Tennessee, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 5963) to amend the General Bridge Act of 1946 with respect to the vertical clearance of bridges to be constructed across the Mississippi River, pursuant to House Resolution 352, he reported the bill back to the House with an amendment adopted in the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment. The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

#### FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. McGown, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 1575. An act for the relief of Mrs. Anneliese Franziska Guay;

H.R. 1602. An act for the relief of Ido Enrico Cassandro;

H.R. 1887. An act for the relief of Helen Tilford Lowery;

H.R. 2155. An act for the relief of Reoko Kawaguchi Moore;

H.R. 2156. An act for the relief of Mrs. Tui Hing Tow Woo;

H.R. 2165. An act for the relief of Marie F. Balish;

H.R. 2645. An act for the relief of Wieslawa Alice Klimowski;

H.R. 2835. An act for the relief of Jose Lauchengco, Jr.;

H.R. 3371. An act for the relief of George Sauter (also known as Georgios Makkas);

H.R. 3722. An act for the relief of Maria Czyz Krupa;

H.R. 4636. An act for the relief of Ralph B. Cleveland;

H.R. 4796. An act for the relief of Richard A. Hartman; and

H.J. Res. 465. Joint resolution making continuing appropriations for the fiscal year ending June 30, 1962, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 6027) entitled "An act to improve benefits under the old-age, survivors, and disability insurance program by increasing the minimum benefits and aged widow's benefits and by making additional persons eligible for benefits under the program, and for other purposes."

#### DELAWARE RIVER BASIN COMPACT

Mr. O'NEILL. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 363, and ask for its immediate consideration.

The Clerk read as follows:

*Resolved*, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the resolution (H.J. Res. 225) to grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes, and all points of order against said resolution are hereby waived. After general debate, which shall be confined to the resolution and continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the resolution shall be considered as having been read for amendment. No amendment shall be in order to said resolution except amendments offered by direction of the Committee on the Judiciary. Amendments offered by direction of the Committee on the Judiciary may be offered to any part of the resolution at the conclusion of the general debate, but said amendments shall not be subject to amendment. At the conclusion of the consideration of the resolution for amendment, the Committee shall rise and report the resolution to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the resolution and amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. O'NEILL. Mr. Speaker, I yield myself such time as I may desire, after which I will yield 30 minutes to the gentleman from California [Mr. SMITH].

Mr. Speaker, House Resolution 363 provides for the consideration of House Joint Resolution 225, a resolution to grant the consent of Congress to the Delaware River Basin compact and to enter into such compact on behalf of the United States, and for related purposes. The resolution provides for a closed rule, waiving points of order, with 2 hours of general debate.

The purpose of House Joint Resolution 225 is to grant the consent of Congress to an interstate-Federal compact that will create a regional governmental commission to administer comprehensively the water resources of the Delaware River Basin.

Parties to the compact are the Federal Government and the States of Pennsylvania, New York, New Jersey, and Delaware. The compact commission will consist of five persons—a Federal representative appointed by the President

of the United States and the four State Governors. This commission will be charged with the adoption and operation of a single comprehensive plan for the immediate and long-range development and uses of the water resources of the Delaware. The plan is to be a framework within which Federal agencies may operate, within which States may operate, within which private enterprise may operate—each fully within the present scope of its powers.

If the powers and functions of law, planning, administration, and finance for a single river basin are to be integrated properly, the solution lies in a single joint agency composed of the governmental bodies concerned. This is the only way to express a dynamic federalism. It fashions the instruments of law, nature, and government to meet the requirements of fully effective public action in the Delaware River Basin. It also offers opportunities for greater administrative efficiency and effectiveness, which are of almost equal importance.

The establishment of a single agency to coordinate Federal interests in the Delaware River Basin is of as much importance as the joining together of the four States and the resultant coordination of their various State activities. In brief, there is one river, one basin, all water resources are functionally interrelated, and each use is dependent upon the other. Therefore, one comprehensive plan and one coordinating and integrating agency is essential for efficient development and operation.

Mr. Speaker, I urge the adoption of House Resolution 363.

Mr. WALTER. Mr. Speaker, will the gentleman yield?

Mr. O'NEILL. I yield to the gentleman from Pennsylvania.

Mr. WALTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on House Joint Resolution 225.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. SMITH of California. Mr. Speaker, this rule has been thoroughly explained by the gentleman from Massachusetts, Mr. O'NEILL. It provides for 2 hours of general debate and is reported as a closed rule.

However, Mr. Speaker, I believe there has been a little misunderstanding as to the manner in which the rule was written up, because there was an agreement made, at the time it was considered, that the members of the Committee on the Judiciary could offer amendments to this particular bill, the gentlemen involved being the gentleman from Pennsylvania [Mr. WALTER] and the gentleman from New York [Mr. RAY]. And, they agreed that that procedure could be followed. I mention that merely in the hope that the committee amendments may be offered without anyone making objection, which would cause it to be sent back to the Rules Committee.



The proponents of this bill have stated before the committee that it does not authorize any particular project; that they need it without further delay in connection with future water resources development, and water shortage problems, in this area. They contemplate some 33 projects which include water and flood control, recreation, and power; that the United States will have a representative on this commission along with the four States involved: Delaware, New Jersey, New York, and Pennsylvania; and that our future participation in this compact will be in accordance with legislation enacted by the Congress of the United States.

There is some opposition to the measure in the supplemental views in the report by the gentleman from Florida, Mr. CRAMER. I understand the gentleman from New York, Mr. RAY, objects to this particular procedure on the basis that we are participating in a partnership on a mandatory basis which they think possibly sets a new precedent and possibly will be held unconstitutional. Furthermore, there are 19 agencies involved in this matter, and they feel they should have more time to study the matter. Other than that, I know of no objection to the rule itself.

Mr. Speaker, I have no requests for time, and I yield back the remainder of my time.

Mr. O'NEILL. Mr. Speaker, I concur in the remarks of the erudite gentleman from California.

Mr. Speaker, I have no requests for time. I move the previous question.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

Mr. WALTER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 225) to grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 225) with Mr. BASS of Tennessee in the chair.

The Clerk read the title of the joint resolution.

By unanimous consent, the first reading of the joint resolution was dispensed with.

Mr. WALTER. Mr. Chairman, I yield myself 20 minutes.

Mr. Chairman, the purpose of this legislation is to grant the consent of Congress to an interstate-Federal compact that will create a regional-governmental commission to administer comprehensively the resources of the Delaware River Basin.

Parties to the compact are the Federal Government and the States of Pennsylvania, New York, New Jersey, and Delaware.

The compact commission will consist of five persons, a Federal representative

appointed by the President of the United States, and the Governors of the four States. The commission will be charged with the adoption and operation of a single comprehensive plan for the immediate and long-range development and uses of the water resources of the Delaware River. We are not, of course, talking about just the Delaware River here today. We are considering a step affecting people—many people—and their future health and welfare.

The Delaware is small as rivers go. It is only a little over 300 miles long, yet 22 million people, or about 13 percent of the national population, depend upon it for everything from drinking water and recreation to navigation and industrial production.

The Delaware, at the same time, is a giant. The jobs it makes possible generate 17 percent of the national personal income. The industrial complex based upon it constitutes one of the world's greatest concentrations of industrial might.

And if predictions are accurate, in five short decades both the population and the industrial output of the Delaware River service area will double. They will double, that is, if the water is there to support them; they will double if the flood protection necessary to save lives and protect property and investments is available. They will double if the necessary supplies are there to meet power requirements. They will double if the recreational amenities are present and will help to maintain the basin as a desirable place in which to live and to work.

At the direction of Congress and at an expenditure of \$2 million of Federal money, the U.S. Corps of Engineers has been conducting a survey and has now completed a comprehensive plan that will enable us to meet these needs.

We now need a political instrument which can take the plan off paper and make it a reality. This House Joint Resolution 225 is that instrument.

It has long been recognized that city or State planning alone is not sufficient to meet the demands of the Delaware's future development. A river basin rarely belongs to one State. Comprehensive development seldom can be carried out by the Federal Government, acting alone, or by the individual States, acting separately and alone. Instead, it involves the joint efforts of government at all levels, city, State, and Federal.

The compact authorized by House Joint Resolution 225 will permit the States of Pennsylvania, New York, New Jersey, and Delaware to join with the Federal Government as partners in tailoring the future of the Nation's most populated and productive region. Such a proposal is in accord with President Kennedy's brilliant message to Congress on natural resources, in which he expressed the aim of his administration to develop comprehensive river basin plans by 1970 and to form planning commissions on which the State and Federal Government shall sit as partners.

It is also in accord with the observation made back in 1953 by a Presidential

Advisory Committee on Water Resources that, and I quote:

The greatest single weakness in the Federal Government's activities in the field of water resources development is the lack of cooperation and coordination of the Federal agencies with each other and with the State and local agencies.

The interstate-Federal compact contained in House Joint Resolution 225 would meet this weakness.

It recognizes that the States will be active participants in the development of the Delaware, building dams and other facilities, that, for the sake of efficiency should be coordinated, in construction and operation, with those to be built by the Federal Government.

There are a total of 19 Federal agencies sharing prime responsibilities for the water resources of the Delaware. In addition to this, there are at present 14 interstate agencies and 43 State departments having some concern with the waters of the Delaware. On the local level there are more than 250 public and private water companies. As a result, the Delaware Basin water problems are dealt with by a multiplicity of agencies—Federal, State, and local—with a confused splintering of responsibilities. It is only commonsense to me that there is a need for a single coordinated agency which can cut across political redtape and artificial manmade boundary lines, and which can coordinate the functions of the Federal, State, and local governments and give unified answers to river basin problems.

The instant compact has been worked out with painstaking care. It grants the consent of Congress not only to the compacting States to enter into this compact, but also it makes the Federal Government a participating partner in this arrangement.

It is important to note that such an arrangement is not a departure or innovation in the law relating to interstate compacts in which the Federal Government also participates. The U.S. Supreme Court has uniformly upheld contractual arrangements in the nature of compacts between the Federal Government and one or more States.

I might observe that your committee has been urged to leave the Federal Government and its agencies out of the compact. It was argued that such an arrangement, especially this particular arrangement calling as it does for a Federal representative who would be a voting representative, raised serious constitutional and other questions. Of course, this simply is not so. Such an arrangement is perfectly constitutional and the committee report sets forth 18 Federal-interstate compacts that provide for Federal representation. I wish to mention specifically the Ohio Valley water sanitation compact.

Mr. LINDSAY. Mr. Chairman, will the gentleman yield for two questions?

Mr. WALTER. I yield to the gentleman from New York.

Mr. LINDSAY. Did these other compacts provide for Federal representation analogous to this compact?

Mr. WALTER. Yes; they did, and there are several of them which are al-



most identical. As a matter of fact, this compact was entered into, as I have already described, and it was already approved by each of the 4 States by almost unanimous votes, only 11 dissenting votes in 4 State legislatures, and followed very closely the language of the compact entered into between the States of Virginia and Maryland and the District of Columbia. The language of this compact follows language that has already been approved.

Mr. LINDSAY. Of course, the District of Columbia case involves a direct Federal interest. I am curious to know whether or not there is a precedent which does not involve as direct a Federal interest such as the one just mentioned. Is there any other precedent closely analogous to this?

Mr. WALTER. Yes; the Ohio Valley water sanitation compact is closely analogous.

Mr. LINDSAY. If I may ask the gentleman just one more question. In the Delaware compact was the participation of the Federal Government as a voting partner brought about at the request of the compacting States or was it suggested to or thrust upon them at the instigation of the Federal Government?

Mr. WALTER. I might say that when the Board of Engineers set out to make the studies, there was appointed and established a Delaware Basin Survey Coordinating Committee. Represented on that committee was the Department of the Army, the Department of Agriculture, the Department of Commerce, the Department of Health, Education and Welfare, the Department of the Interior, the Department of Labor, the Federal Power Commission, the Commonwealth of Pennsylvania, and the States plus the cities of Philadelphia and New York. So this was a truly representative committee assembled by the general in charge of the Army district in the Philadelphia area who was the representative of the War Department whose name I cannot recall at the moment.

Mr. LINDSAY. Insofar as the gentleman has knowledge was there any resistance on the part of the State governments, either by the legislative or executive branches of these States, to the inclusion of the Federal Government as a voting partner?

Mr. WALTER. On the contrary, the States were very anxious that the compact take this particular form because of the experience we have had in this area for 25 years. For 25 years attempts have been made to devise some sort of a program that will take care of the ever-increasing demands for water. The States were very glad to have the Government of the United States as a participating partner because with one representative then the 19 different agencies of Government would not have to be consulted about every single phase of any proposal.

Mr. LINDSAY. I thank the gentleman. I strongly support this bill and intend to vote for it.

Mr. CRAMER. Mr. Chairman, will the gentleman yield with reference to the points just raised by the gentleman from New York?

Mr. WALTER. I am glad to yield to my colleague.

Mr. CRAMER. Of course, the gentleman knows my position with regard to participation by the Federal Government on a voting basis.

Mr. WALTER. I am not so sure that I do know just what the gentleman's position is since he has taken two or three different positions and I would not know what the gentleman's position is today.

Mr. CRAMER. For more than a year now I have been opposed to the voting privilege for the Federal representatives in this and in the Northeast compact bills. I do not intend to take the gentleman's time discussing in detail the four compacts the gentleman recited as precedents. It will be my intention in the period allotted me later to discuss each of those, which leads me to the conclusion that there is no precedent for this on a participating, voting, mandatory basis with the Federal representative voting on all matters including the administration of the compact.

Mr. WALTER. The Compact Commission is not a mere advisory commission, but is in fact, an operating agency empowered to adopt and enforce its own regulations. I am pleased to note that the Administration is relaxing its position on the constitutional question, which is further evidence of the soundness of our belief in the worthiness of this legislation.

House Joint Resolution 225 is a good bill. The Delaware River Basin compact is a good compact, a compact such as this was suggested by President Eisenhower's Commission and I read:

The committee recommends—

(a) That future multipurpose basinwide development of water resources should be on a partnership basis between the Federal Government and the States.

(b) That the States in general assume more leadership and responsibility in this field.

(c) That direction and control be provided by balanced division of authority between the Federal Government and the States concerned (Report of the President's (Eisenhower) Commission on Intergovernmental Relations (1955)).

I urge the compact's adoption.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. WALTER. I yield.

Mr. STRATTON. I wonder if I may ask the gentleman from Pennsylvania one question with respect to the impact of this compact if it is approved, in my district of New York State. The Delaware River is not in my district, but it is very close, and there is a great deal of concern in this and other areas with regard to the wishes of the Army Engineers to construct a large reservoir type dam which would take valuable farmland in the rich farm valley of Otsego County, New York State. The people in my part of New York State are understandably opposed to the construction of these dams, and I am interested in knowing whether the gentleman could give me some assurance that if the House approves this compact and it goes into effect, the power to construct large dams and to take valuable farmlands

out of production in areas of New York State and elsewhere will not be taken away from the authorities who now exercise that control? In other words, are we taking away from this House the power that it has to prevent the construction of these dams which we now have which people feel strongly about? I would not want to see anything done to jeopardize the farmers in my district.

Mr. WALTER. The gentleman raises a very interesting and important question. I say that for this reason, that the adoption of this resolution does not approve a single project; so that if it were contemplated to proceed with a water project that would affect the gentleman's district through the acquisition of basin lands, that would have to be submitted to Congress, first to the Bureau of the Budget, then to the appropriate legislative committee for authorization, and then to the Appropriations Committee.

The approval of this compact does not automatically carry with it the authority to embark upon the construction of any project; and, I might add, if it did in any way affect existing law with respect to the taking of property without just compensation, the compact would be unconstitutional.

Mr. STRATTON. I thank the gentleman for that assurance. I know it will be an important measure of assurance to the people of my district.

Mr. SAYLOR. Mr. Chairman, will the gentleman yield?

Mr. WALTER. I yield to the gentleman from Pennsylvania.

Mr. SAYLOR. The chairman of the Committee on Insular Affairs of the House, the gentleman from Colorado [Mr. ASPINALL], and myself were very much interested in the piece of legislation which we are now considering. Together with the members of our staff we drafted a series of 21 questions with regard to the Delaware River compact problem and submitted them to the gentleman now speaking, Mr. WALTER, of Pennsylvania. These questions which we raised were in our opinion important because the piece of legislation as drafted left these questions unanswered. It is my understanding that the staff of the Committee on the Judiciary, together with Mr. WALTER and other Members working with him, have prepared answers to these questions.

I am wondering whether or not for clarification of the record the gentleman intends to place these questions together with the answers he submitted to Mr. ASPINALL and myself in the RECORD.

Mr. WALTER. Yes. I wish to make the questions and answers a part of the RECORD. I might say that the Committee on the Judiciary is indebted to the gentleman from Pennsylvania and the gentleman from Colorado because we believe that this series of questions has raised every conceivable question. We believe, in all modesty, that the answers prepared by the subcommittee and our staff answer each of these questions, and we hope to the satisfaction of everybody.

I shall ask at the proper time to place these in the RECORD at this point:



ANSWERS TO QUESTIONS SUBMITTED BY REPRESENTATIVES SAYLOR AND ASPINALL ON THE DELAWARE RIVER COMPACT

1. How many of the States concerned have fully ratified the compact? Delaware? New Jersey? Pennsylvania? New York?

"The States of Delaware, New Jersey, and New York have fully ratified the compact. It is pending in Pennsylvania."

2. When will the Corps of Engineers' comprehensive plan for the Delaware River become public?

"The Corps of Engineers' comprehensive plan has been made public and has been submitted to Congress. A preliminary report of it had previously been circulated."

3. Is request for the Congress' consent to the compact premature in view of the answers to the above?

"The request for congressional action is not premature; it is rather most timely and essential that there be no delay in establishing a proper basin-wide agency which would be authorized to speak for the basin as a whole, rather than to leave the effectuation of a plan to the uncoordinated administration of some 43 State agencies, 14 interstate agencies and up to 19 Federal agencies, now exercising a multiplicity of powers and duties in the basin. There will, if the Congress acts, be nearly simultaneous action on the part of the participating States and Federal Government."

4. What will be the situation if the Congress hereafter exercises its right to withdraw from the compact (p. 9, line 23)? Will the Commission continue in existence or will it automatically go out of existence? If it will automatically go out of existence, why could it not be organized without the United States to begin with?

"The Commission would continue in existence but would be seriously handicapped. That is, provided Congress only withdraws Federal participation and does not also withdraw congressional consent. If Congress withdraws consent, the compact will terminate since the Constitution (art. I, cl. 10) requires continuing congressional consent."

5. In view of the fact that the compact is breaking new ground in a number of directions, would it not be better if the United States were to assent to the compact for a limited period with provision for coming back to Congress in, say, 10 years instead of having it set up for a perpetual or indeterminate period? What necessity is there for the latter provision?

"The very nature of the basin agency calls for as much stability and long-range planning as is possible. Water development projects take from 10 to 15 years from the time they are conceived to the time they may be in operation, and their financing may well cover a period of 50 years. If the new basin agency is to be effective at all in giving direction and coordination to governmental programs, and in providing encouragement for private investment in resources development, it must have the stability of corporate existence for the indefinite future. In fact, the traditional form in which these public bodies for municipal purposes are established is with perpetual duration. The reason for having a hundred year reexamination is that the four States are giving up certain water rights for the common good at this time without being in a position to know the facts which may be pertinent over the next generation or two. From the viewpoint of the Congress, the power of withdrawal conferred by section 1.4 provides a full protection of the Federal interest."

6. What is the meaning of the provision (p. 11, lines 5-9) that the Delaware River Basin Commission shall be an "agent and instrumentality" of the United States? Will the United States be in any way liable, for instance, under the Tort Claims Act for

any torts the Commission or its agents may commit?

"The basin agency would have a dual character, being the agency and instrumentality of the Government of the United States as well as of the States which are signatory to the compact. In this respect, it would be similar to a mixed ownership Government corporation, as described in the Government Corporation Control Act. Section 14.18 of the compact places liability upon the commission and makes the Commission liable to the same extent the United States Government would be liable under Federal law."

7. The Commission is authorized to sell hydroelectric power within or outside of the Delaware River Basin (p. 12, lines 24-25). Is this limited to power generated at plants owned by the Commission? What control, if any, will the Federal Power Commission have over sales by the Delaware River Commission?

"The commission's authority to sell hydroelectric power is limited to facilities which it may own or operate, and this is confirmed by section 3.7 of the compact which authorizes the commission to make changes 'for the use of facilities which it may own or operate and for the products and services rendered' by such facilities. Essentially, this would be a matter to be determined by future legislation, since the question of ownership is related to the technical problems of legal title which vary in their importance with respect to property devoted to public use. For all practical purposes, an agency authorized to operate may have all of the useful incidence of ownership of such property, at least for the duration of its authority to operate. The authority of the Federal Power Commission in the basin would not be modified in any way. Under the Federal Power Act, the FPC does not regulate sales by State agencies, nor does it regulate wholesale electric energy by Federal or State agencies. It will, however, have licensing jurisdiction over basin projects."

8. What is the difference between an "allocation" of Delaware River water "in accordance with the doctrine of equitable apportionment" which the Commission is authorized to make (p. 14, lines 8-13) and an apportionment of the same waters which it is forbidden to make (p. 15, lines 8-10)?

"The terminology here is taken from the U.S. Supreme Court decree in *New Jersey v. New York*, 347 U.S. 995 (1954). Under the doctrine of equitable apportionment as applied in that case, an allocation of water among the States gives no vested right, and is subject to review and adjustment as future equities arise. The parties agree that as to the past Supreme Court decree applies and as to the future the basin Commission will make allocations. Since it is intended that the basis upon which the Commission would make its allocations shall be the same basis upon which the Supreme Court would have placed its decree are included in paragraph (b) of section 3.3."

9. Does the 1-year statute of limitations in section 3.3(c) (p. 15, lines 20-22) bar the United States from taking action under, for instance, the Pollution Control Act or to protect navigation on the lower Delaware if it does not act within 1 year?

"The provision of section 3.3(c), particularly the 1-year statute of limitations, deals only with the interstate disputes as to the allocation of waters by the Commission. It in no way affects the possibility of action by the United States, all of which is expressly saved by section 1.4 of the compact itself as well as by the constitutional vesting of powers with respect to navigation under the commerce clause."

10. Does the Commission's power to "establish standards of planning, design, and

operation of all projects and facilities in the basin" (p. 17, lines 22-23) oust Congress and the Federal agencies from controlling these same items as they relate to Federal developments or to projects requiring a Federal license?

"A principal purpose of the compact is to refer all projects and facilities in the basin to the comprehensive plan. Federal agencies would also be required to conform to the plan. Under the reservation contained in section 1.4, the Congress could at any time overrule the provisions of the plan, but it is contemplated that the national interest in the basin will be fully expressed through the comprehensive plan and that there would be no occasion for the use of this safety valve by the Congress. In addition, the Federal Government would have a further control over all projects since the executive department and the Congress must approve all capital and other expenditures."

11. What is the meaning of "governmental authority" on page 19, lines 24-25? Does the use of this term at this place mean that any Federal agency planning a water development project—for instance, a water supply for an Army camp or a Navy shipyard—must first have its plans approved by the Commission even though the project has been authorized by Congress?

"See the answer to question 10 above. Also note that section 11.1(c) of the compact preserves for each Federal agency all of its functions, powers and duties within the basin except as specifically required by the section; namely, that project planning be done in consultation with the Commission and that projects fit into the comprehensive plan, so as to avoid conflicts among Federal agencies as well as among State agencies and between Federal and State agencies."

12. When the compact provides (p. 24, lines 11-13) that the commission "may invoke as complainant the power and jurisdiction of water pollution abatement agencies of the signatory parties," does this include the powers of the Surgeon General and the Attorney General of the United States under the Water Pollution Control Act? Conversely, does it mean that these officers will no longer have any power to act in accordance with their duties under that Act without going through the commission?

"The compact here gives the basin commission authority to complain to any duly constituted department of the Federal or State government signatory to the compact, for the purpose of asking them to invoke their powers as provided by law. This would include the authorities mentioned as well as any others having to do with water pollution abatement. This provision does not lessen the powers of such departments or agencies, but in fact provides another avenue through which they may be exercised. In the field of pollution abatement, moreover, it is recognized that Federal action is to a considerable extent dependent upon cooperative State action, and vice versa, and one of the purposes of the comprehensive plan would be to provide a common framework of anti-pollution standards within which all authorized bodies may act cooperatively. This is confirmed by section 5.5 of the compact."

13. What duty is imposed on Congress by the provision (p. 25, lines 13-23) that "Each of the signatory parties \* \* \* agrees to enact any necessary legislation to enable such party to place and maintain the waters of said basin in a satisfactory condition," etc.?

"This provision is primarily of application to the several States. It recognizes that the sources of pollution may actually be more appropriately controlled under the State police power than under Federal authority. In any event, it is a statement of faith rather than of legal requirement which is more



useful in committing the States to cooperate with the Federal agencies rather than vice versa."

14. When the compact provides (p. 32, lines 5-9) that "The waters of the Delaware River and its tributaries may be impounded and used by or under the authority of the [Delaware River] commission for the generation of hydroelectric power and hydroelectric energy, in accordance with the comprehensive plan," does this oust the FPC from its normal jurisdiction? If not, does it mean that the FPC and the Delaware River Commission will both have to license developments and that, unless they agree on the license terms, there will be no private developments?

"The FPC is not ousted from its normal jurisdiction, particularly in light of the express provision of section 11.1(c). Private development would require screening by the commission for conformity with the comprehensive plan and would also require the usual FPC license. If it failed to pass in either respect, a project could not proceed without appropriate modification. This is inherent in the comprehensive and multipurpose development concept."

15. The compact provides with respect to Federal agencies that "No expenditure or commitment shall be made for or on account of the construction, acquisition, or operation of any project or facility, nor shall it be deemed authorized, unless it shall have first been included by the commission in the comprehensive plan" (p. 36, lines 12-16). Does this, in effect, give the Commission a veto power over decisions of the Congress authorizing public works projects and over the expenditure of funds regularly appropriated to carry out these projects? Is it applicable both to projects which have already been authorized and to those that may be authorized in the future?

"The quoted provision from section 11.1 (b) does not give the Commission a veto power over decisions of the Congress, but rather represents in itself a specific policy decision by the Congress that all of the authorized multipurpose uses and developments of the water resources of the basin shall be consistent with each other, as determined by the comprehensive plan. If the Congress should ever want to change this policy, section 1.4 provides an appropriate means to which the States have agreed in advance."

16. The Commission is directed to "establish uniform standards and procedures for the evaluation, determination of benefits, and cost allocations of projects affecting the basin, and for the determination of project priorities \* \* \*". It is also directed to "develop equitable cost sharing and reimbursement formulas for the signatory parties." (P. 37, line 20; p. 38, line 3.) How will this affect the application of such standards and formulas as have been and are being developed by the Federal Government for projects across the whole Nation?

"The standards and formulas being developed by the Federal Government are, in effect, designed to guide the expenditure of Federal funds. They would continue, as they are developed, to perform this function. The Basin Commission's standards would be primarily useful with respect to cost sharing by the four States. If there were to be any difference, as the Commission standards might affect the Federal Government as a signatory party, the Congress is of course free to follow uniform national policies since the Commission's standards are not in any event binding upon any of the parties. Section 12.20(a) expressly provides that 'nothing in this section (after referring to the cost sharing standards) shall be deemed to impose any mandatory obligation on any of the signatory parties other than such obligations as may be assumed by a signatory

party in connection with a specific project or facility.'"

17. The compact provides (p. 44, lines 4-8) that "All bonds issued by the Commission under the provisions of this compact and the interest thereof [sic] shall at all times be free and exempt from all taxation by or under authority of any of the signatory parties, except for transfer, inheritance and estate taxes." Does this mean that the Congress is binding itself irrevocably not to tax the income from any Commission bonds that are issued while the United States remains a party to the compact? Will the bonds be subject to capital gains taxes if they appreciate in value? To capital loss deduction if they depreciate?

"The question of the taxation of interest on bonds issued by the Commission is one which relates to the bondholders rather than to the Commission. This provision is no more binding or irrevocable than the present provision of the Internal Revenue Code which makes interest received by municipal bondholders exempt from Federal tax. Moreover, under section 1.4 the Congress has an express reservation of the power to modify in the future if it wishes. The capital gains and losses status of bonds in the hands of bondholders would be determined entirely by the provisions of the Internal Revenue Code, in the same manner as the code covers transactions with respect to other tax exempt securities."

18. The commission is required to apportion its current expense budget among the signatory parties (p. 52, lines 4-8). The compact then goes on to provide: "The respective signatory parties covenant and agree to include the amounts so apportioned \* \* \* in their respective budgets \* \* \* subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the commission in quarterly installments during its fiscal year, provided that the commission may draw upon its working capital to finance its current expense budget pending remittances by the signatory parties" (p. 52, lines 11-20). What obligation, legal or moral, does this impose on the Bureau of the Budget to include in the budget the full amount apportioned to the United States by the commission? What obligation, legal or moral, does it impose on the Appropriations Committee to include in bills reported by it the full amount apportioned to the United States? What does "subject to such review and approval as may be required by their respective budgetary processes" mean? To what extent, if any, may the Budget Bureau and the Appropriations Committee look into the equity of the apportionment made by the commission? To what extent, if any, may it look into the reasonableness of the commission's estimates of its expenses? How does the answer to the preceding question fit with the power and duty given the commission to "determine the character of and the necessity for its obligations and expenditures"? (p. 54, lines 8-9).

"The process contemplated here is much like that followed by the Federal Government and the Bureau of the Budget at present with respect to the various international bodies in which the United States is a member. The basin commission would be obliged to justify all of its budget requests in the same manner as a Federal department. It should be noted that the apportionment of the commission's budget among the signatory parties requires the unanimous vote, which would include the vote of the Federal representative as well. Even then there is no legally enforceable obligation to appropriate, and the only moral obligation is the same as that undertaken by the United States with respect to one of the parts of a Federal department. The power

delegated by section 14.1(b) is to the commissioners, as distinguished from the commission, and allocates the responsibility within the corporate body for the exercise of such powers as it has. In any event, the commission could not spend more than the signatory parties were willing to provide, and that they would determine in the same way that they determine other appropriations."

19. Will the provision that "The Commission, its property, functions, and activities shall be exempt from taxation by or under the authority of any of the signatory parties" (p. 55, lines 19-21) interfere in any way, now or in the future, with the taxing authority of the United States?

"This merely states the tax immunity which the Supreme Court has determined is conferred by the Federal Constitution. Since the basin agency would be an instrumentality of the Federal Government, the States could not tax it and conversely, as an instrumentality of the States, it would be immune from taxation by the Federal Government."

20. What acts of Congress are repealed by section 15.2 (p. 69, lines 21-23)?

"No acts of Congress are actually repealed by section 15.2. It is only to the extent that any prior act is inconsistent with the compact bill that the compact bill would supersede the prior act. This would be the legal effect even if the repealer section were not there. Whether there is an inconsistency or not would be determined in each instance in the future on the basis of specific facts, and for this reason it is impracticable to list any Federal acts. Under these circumstances, this is a common form of generalized repealer."

21. What agencies of the executive branch, if any, participated in the drafting of the compact? Which of them, if any, have advised that there is no objection to enactment of House Joint Resolution 225? What assurance, if any, is there that it is satisfactory to the administration?

"The executive branch did not formally participate in the drafting of the compact, but has had it since the first of the year for study and comment. At present, the President has designated Secretary Udall to be responsible for coordinating the views of the executive agencies, conferences have been held, and it appears likely that the position of the executive departments will be agreed upon before long."

The existence of an interstate organization such as Incodel raises important policy and program problems relative to the development of the water resources of the river basin. While it is the one agency concerned with the totality of water resources on a basinwide basis, it is without administrative authority.

Because it is the only basinwide water agency, Incodel attempts to fulfill a coordinating role which requires a greater jurisdiction than it can possess as only an agent of the States. There are Federal responsibilities on the Delaware which cannot be escaped by local disclaimers. It is a navigable stream on which large Federal expenditures are being made for providing and maintaining navigation; it has flood-control problems which the Federal Government is expected to meet, and it has sizable hydroelectric-power potentials, the development of which the Federal Government is directed to regulate and, under appropriate conditions, authorized to undertake.

10. Lack of comprehensive multiple-purpose plan: There are elements of the water-resources problem for which this Department has no responsibility which, nevertheless, affect, in one way or another, other elements for which this Department is responsible. In the Delaware this dispersion of responsibility exists not only between Federal agencies, but also between the several States



and the Federal Government and between Incodel and the Federal Government. Specifically: (1) The Department has responsibility for marketing power from such Federal dams as may be constructed in the basin, but it does not have a part in the development planning. (2) The Department has responsibility for the preservation of fish, but has only indirect influence on the planning of dams, the placement and character of which is critical to fishery resources. (3) Pollution is one of the major handicaps to full utilization of the waters for fish and recreation, but until recently the Federal Government has had practically no responsibility for pollution. It is hoped that the recent act creating the Pollution Control Board and authorizing comprehensive pollution-control plans and Federal aid will bring action on this front. Such comprehensive plans, however, to be effective, must be related to other water-resource elements. (4) Basic topographic, geologic, and water data, while supplied primarily by the Geological Survey of this Department, is often limited in terms of place and amount of program by the practice of States matching funds. (5) The land management and use programs conducted by agencies of the Department of Agriculture have direct ramifications upon fish and wildlife in the Delaware Basin.

Source: The Delaware River Basin. Report for the President's Water Resources Policy Commission, prepared by the Eastern Field Committee, U.S. Department of the Interior, October 1950, page 41.

Mr. LINDSAY. Mr. Chairman, will the gentleman yield?

Mr. WALTER. I yield to the gentleman from New York.

Mr. LINDSAY. I think it is important that the RECORD show that at the recent meeting of Governors in Hawaii, under the leadership and sponsorship of Governor Rockefeller, the Governors adopted a resolution approving this compact.

Mr. WALTER. Of course, and I might say to the gentleman that either the Governors of the four States or their representatives appeared before our subcommittee at the hearings and urged prompt adoption of this compact.

Mr. TOLL. Mr. Chairman, will the gentleman yield?

Mr. WALTER. I yield to the gentleman from Pennsylvania.

Mr. TOLL. Mr. Chairman, I wish to commend the distinguished gentleman from Pennsylvania on his remarkable presentation of the facts involved in this compact, and I would like to associate myself with the remarks he made.

Mr. Chairman, the compacts between States have recently been questioned to some extent in connection with the right to review and audit the activities of the bodies created to carry out the functions permitted under the compact. In at least one case involving the compact between New York and New Jersey pursuant to which the Port of New York Authority was created, a question was raised whether the congressional committee had a right to inspect the internal pages of the authority. The compact involved in House Joint Resolution 225 eliminates this problem. The U.S. Government is a partner and its representatives will know everything which is going on or being done. However, the Government is not bound by the action of the members of the com-

mission created by the compact unless the representative of the United States agrees to the action. Section 12.20 and section 13.3(B) (2) of the bill does not bind unless the Government permits any obligation to be imposed upon it. In addition section 1.4 gives the Congress the right to withdraw as a party to the compact or to revise or modify the terms, conditions, and provisions under which it may remain a party.

The Government is fully protected and the benefits of the compact are available for the people of the Delaware Valley Basin.

(Mr. BARRETT asked and was given permission to extend his remarks at this point in the RECORD.)

Mr. BARRETT. Mr. Chairman, as one who is vitally interested in developing the potential of the Delaware River to its maximum, I wholeheartedly support House Joint Resolution 225, the Delaware River Basin compact.

The enactment of this resolution is not only of great importance to the residents living in Philadelphia, but will greatly benefit all people living in the Commonwealth of Pennsylvania and the States of New York, New Jersey, and Delaware. In fact, our entire eastern seaboard will benefit indirectly from the development and growth of the Delaware Basin.

We are not dealing merely with a river or a basin area, but are planning for the future and livelihood of over 22 million people, which today represents about 13 percent of our national population. This figure will continue to grow each year and unless some constructive program is developed, the Delaware Basin will be unable to service the populace.

Our Commonwealth is not in a financial position to assume this burden. In fact, no individual State could financially develop the basin. But with the enactment of this resolution, the four States involved together with the support of our Federal Government, could initiate an effective, long-range program to insure adequate water power; workable flood control projects; to develop reserve reservoirs for drought periods; to provide for a more consistent distribution of water to homes, farms, and recreation areas; to control pollution and, in general terms, make the river and basin effectively produce for the people.

Mr. POFF. Mr. Chairman, I yield myself such time as I may consume.

(Mr. POFF asked and was given permission to revise and extend his remarks.)

Mr. POFF. Mr. Chairman, by way of preface, let me pay tribute to the gentleman from Pennsylvania, chairman of Subcommittee No. 1 of the Committee on the Judiciary, Mr. WALTER, who has devoted a great deal of his time and talents to this most tedious project, and has, I believe, given the other members of the committee wise guidance in our deliberations.

As the chairman of the committee has indicated, this might properly be called a pentagonal compact; that is to say, it is not a purely interstate compact but, rather, it is a compact among four States

and the Federal Government, a five-sided creature.

It is the purpose of the compact, as explained more fully in the committee report, to adopt and operate a comprehensive plan for the development and the use of water resources in the Delaware River Basin.

May I emphasize at this point that what is involved is one river, one basin, populated by approximately 22 million people and expected to be 30 million people in the next 20 years; that all of the water resources appurtenant to the river and its tributary system are functionally, interrelated and interdependent. As the chairman has already explained, there are today some 19 Federal agencies each of which has some measure of jurisdiction and control over some aspect of water resources in the Delaware River Basin. In addition, there are 57 State and interstate boards and commissions which have jurisdiction with respect to some aspect of water resources in the basin. But, in addition, and complicating the picture much further, there are altogether today 250 water control boards, both public and private, functioning in the area.

Now, from this recitation of statistics, it will be apparent that the Federal Government on the one hand has claimed and exercises today primary jurisdiction with respect to navigation, flood control, irrigation, hydroelectric power production, and some other functions. On the other side of the coin, the State governments assert primary jurisdiction with respect to water supply, sewage, drainage, fish and wildlife, and so forth. But, in the middle there is this great area of overlapping jurisdiction between the Federal Government on the one hand and the State governments and their several agencies on the other. In that realm of jurisdiction we find such things as recreation, conservation, forestry, streamflow regulation, and the regulation of electric power sales.

Now, it is patent, of course, that this river, like most rivers, honors no geographical or political boundaries, and primarily for that reason there has been a great volume of litigation over the years. Thirty years ago, as a matter of fact, the Supreme Court of the United States entered a decree under which the many controversies which arose in this area are administered on a continuing basis. Under that decree, as later amended, a river master was appointed in an attempt to settle administratively some of these controversies. But, the decree itself authorizes the participating parties to return to the Supreme Court to litigate anew controversies arising concerning the diversion and allocation of waters from the river. This illustrates, I think, what might properly be described as an interminable series of lawsuits.

In 1956 the Congress authorized a 3-year \$2 million survey to be conducted by the Corps of Engineers, and it is the purpose of the Corps of Engineers based on that survey to present to the commission, after it is acknowledged by law, a comprehensive plan which the members of the subcommittee genuinely feel will



put at rest most, if not all, of these continuing controversies and litigation. As indicated earlier, several amendments will be offered. They reflect concern, and I am sure it is a genuine concern, about participation on the part of the Federal Government as a signatory party to the compact.

But let me undertake to assure the House that the Congress of the United States does not by becoming a functional party to the compact surrender any part of its sovereignty or in anywise abrogate in any measure its duty under any law enacted by the Congress.

I call your particular attention to article VI of the Constitution, the so-called supremacy clause. Under that clause, the Commission as an agency of regional government would continue to be subject to the substantive provisions of all Federal laws which have been passed by the Congress. Moreover—and I think this is important because several of the Members have directed questions to me about it—the present national policy would endure with respect to laws already passed by the Congress. Some of the laws to which I have reference are: The Flood Control Act of 1944; control and regulation of obstructions to navigation; the licensing provision of the Federal Power Act; pollution abatement under authority of the U.S. Public Health Service; the functions of the Soil Conservation Service all would remain intact. The functions, the powers and duties of the Geological Survey, the Weather Bureau, the Fish and Wildlife Service, the Bureau of Mines, the National Park Service, the Forest Service, and other Federal agencies will be preserved within the framework of the comprehensive plan devised by the Corps of Engineers. But most important of all, I want to impress upon you the language which appears in section 1.4 of article I, part 1, of the bill. I shall read that language in its entirety:

1.4 Powers of Congress; Withdrawal. Nothing in this compact shall be construed to relinquish the functions, powers or duties of the Congress of the United States with respect to the control of any navigable waters within the basin, nor shall any provision hereof be construed in derogation of any of the constitutional powers of the Congress to regulate commerce among the States and with foreign nations. The power and right of the Congress to withdraw the Federal Government as a party to this compact or to revise or modify the terms, conditions and provisions under which it may remain a party by amendment, repeal or modification of any Federal statute applicable thereto is recognized by the signatory parties.

That, of course, includes the four signatory States.

Mr. TOLL. Mr. Chairman, will the gentleman yield?

Mr. POFF. I will be happy to yield to the gentleman.

Mr. TOLL. I think that clause clearly shows how the Government can participate in a compact between the States with all of the advantages of inspection, review, audit and checking and yet at the same time not involve itself in any way in the responsibilities if it wishes to withdraw. This would be an advantage to the situation which exists in the

compact between New York and New Jersey where there were some questions raised as to the rights to inspect the records involving the Port of New York Authority.

Mr. POFF. I thank the gentleman.

Supplementing what the gentleman has just said, the compact expressly says that all of the basin agency's operations will be subject to audit by the Comptroller General. Moreover, the right is reserved to the Committees of the Congress to require full disclosure on the part of the Commission members.

May I also remind you that in part 2, section 15.1 of the bill, we find the following language:

The right to alter, amend or repeal this section is expressly reserved to the Congress.

As indicated earlier, a number of amendments will be offered by the distinguished chairman of the subcommittee as amendments approved by the subcommittee, and I assume those amendments will be offered en bloc. Later, perhaps, there will be an amendment offered by the gentleman from Florida [Mr. CRAMER], touching upon the voting power of the Federal representative. As I understand it, later an amendment will be offered by the gentleman from New York [Mr. RAY], concerning the elimination of the United States as a signatory party.

It has been suggested that certain constitutional questions may be involved with respect to these two matters. I will have something to say to that point when the amendments are offered.

Mr. WALTER. Mr. Chairman, I have no further requests for time.

Mr. POFF. Mr. Chairman, I yield such time as he may desire to the gentleman from New Jersey [Mr. CAHILL].

Mr. CAHILL. Mr. Chairman, as the representative of the First Congressional District of New Jersey, comprising the counties of Camden, Gloucester, and Salem, all bordering on the Delaware River, I enthusiastically support this joint resolution, and urge its adoption by the House.

There are many reasons that may be advanced for the approval of this resolution.

There are 43 State agencies, 14 interstate agencies, and 19 Federal agencies at the present time exercising a multiplicity of powers and duties related to the water resources of the Delaware River Basin. Each of the four States and the Federal Government have a definite interest of overwhelming importance in the Delaware River Basin. As has been well stated in the report of the committee:

The waters of the Delaware, of course, respect only their own natural boundaries. They do not respect manmade political boundaries.

As a result, it has become throughout the area increasingly more apparent that a compact such as is proposed by House Joint Resolution 225 is essential for the purpose of management of the Delaware River Basin and the general welfare of the citizens of the States which are served by the Delaware River.

There have been throughout the years many disputes arising between the vari-

ous States which have given rise to lengthy and expensive Federal litigation. This compact should solve to a large measure all of the existing disputes and prevent the necessity for future disputes.

Anyone who viewed the havoc wrought by the rushing waters of the Delaware River in recent years as a result of hurricanes would recognize the great need for river control and for intensive study as to the best utilization and control of the forces of this great river.

There are many other reasons most of which have already been discussed by the members of the subcommittee which argue most forcefully for the passage of this needed legislation.

Suffice it to say that this agreement between the States and the Federal Government should aid tremendously in the dynamic growth presently being experienced in the Delaware Valley. It should insure an orderly future growth.

Mr. Chairman, I am of the opinion that the objections to this compact raised by its opponents are not well founded in fact or in law and would respectfully point to the fact that they largely emanate from Representatives of areas not directly affected by the Delaware River.

The people of the four States involved will, I am sure, welcome and applaud this much needed legislation and will observe as the future unfolds the wisdom of the Judiciary Committee on which I have the honor to serve in presenting this resolution to the Congress.

I enthusiastically support the resolution and urge the Members of the House to approve it.

(Mr. CAHILL asked and was given permission to revise and extend his remarks.)

Mr. POFF. Mr. Chairman, I yield 10 minutes to the gentleman from Florida [Mr. CRAMER].

(Mr. CRAMER asked and was given permission to revise and extend his remarks.)

Mr. CRAMER. Mr. Chairman, I hesitate, of course, to consider it my responsibility to differ at least in part with my very good friend, a very able Member of Congress, Mr. WALTER, and likewise differ with my distinguished colleague from Virginia. Perhaps my difference of opinion emanates largely from the fact that I have the privilege of serving on the Committee on Public Works as well as Judiciary, and this same issue has been in a very lengthy manner considered by that committee. That committee, of course, deals with authorizations and Federal participations, Federal costs in the very projects we are talking about over which this Delaware commission will have jurisdiction.

The Republican minority of that Public Works Committee last session unanimously upheld the very same position which I am voicing in this bill, and that is opposition to the voting membership, voting participation of the Federal Government in this joint Federal-State compact agency.

The gentleman from Virginia said this is a five-sided creature. Yes; as a matter of fact, this is more unusual than the duck-billed platypus. This is more un-



usual than the duck-billed platypus with four parts State and one part Federal. It is a new, unique creature without any precedent, and I believe it is bad as a precedent.

I will discuss briefly in a moment the precedents that were cited as such for this type of voting membership on that commission. There were four that were cited by the distinguished gentleman from Pennsylvania. I stated in the colloquy with him, and I appreciate his yielding, that all four of them can be distinguished on the facts.

What are the two fundamental issues in this point resolution? The two fundamental issues are these: No. 1, Should the Federal Government be a participating member, voting, in the makeup of a compact that has jurisdiction over water resources on a broad basis, which the gentleman from Virginia described. All water problems in that area, which is a substantial area, would be under the jurisdiction of this commission. But the Federal member will have participation in every detail of administration involved in this commission. This is not an advisory commission. Many of the examples cited as precedents are advisory commissions. This is not an advisory commission, that is an operating commission. The commission will have authority to hire and fire employees, set budgets and to issue bonds. They say the full faith and credit of the Federal Government will not be obligated, yet morally the Federal Government is going to be obligated at any time it votes for a bond issue as a participating member, in favor of its being issued. There is the rub.

The Federal Government is likewise morally obligated on any project that commission approves to the extent of the Federal participation, that is determined by whom? There is the second rub. Determined by the commission, not by the usual Federal agencies.

The gentleman from Virginia mentioned the fact that this is not going in any way to interfere with existing Federal law, but it is going to interfere with existing Federal policies, policies within the departments. This restriction only involves law, but as to the policy set by the departments with regard to Federal-State participation, with regard to local participation in these multiple-purpose projects, who is going to decide what the participation shall be? Not the Federal member. He is going to be outvoted four to one. The States are going to decide that in a water project, a multiple-purpose project. "Here is what the Federal share is going to be and here is what the State share is going to be." It could easily fly in the face of an established Federal policy with respect to that.

Now in distinguishing the four compacts that have been mentioned, let me say this is of greater significance than this one compact, there is already pending and it was just voted out yesterday, and I am glad to see the distinguished majority leader present because he has an interest in it, it being the gentleman's bill, the Northeast Compact, H.R. 30, that is the same as the compact introduced in the last session to which I just re-

ferred that the minority objected to in the last session of the Congress which was H.R. 12647 on exactly the same basis. So this is just a foot in the door. This is a brandnew approach to get the Federal Government in to commit it in advance morally to go along with whatever the Commission made up of four to one State members decides should be the Federal obligation in any given project. That is wrong because it destroys the Federal-State relationship that has existed with regard to compacts in the past. It is very interesting to note what happened with regard to the bill H.R. 30 in the Committee on Public Works. The entire committee agreed with the amendments, which are exactly the same amendments I intend to offer to this compact. They agreed one week to the amendments unanimously and then, just yesterday, turned around and disagreed to them and the bill was voted out without amendments. But the amendments so far as I am concerned have equal merit now as they had 2 weeks ago and are of the same nature as the amendments I intend to introduce today.

The other distinguishing factor and the important factor is that the cost of this is being borne one-fifth by the Federal Government. It is a blank check, open authorization for appropriations. One-fifth of the cost of the administration and of hiring bookkeepers and of keeping books and of hiring engineers and all other operating expenses is to be borne by the Federal Government, which is the same objection raised to the other compact.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I yield to the gentleman from Pennsylvania.

Mr. WALTER. The amount is \$40,000.

Mr. CRAMER. I am not familiar with that figure. It is not limited in the bill or referred to in the committee report and I understand the amendment the gentleman intends to offer will have an open end appropriation with regard to all administrative expenses in the future. Of course, my amendment will attempt to prevent the Federal Government from participating financially in it. So this is a new precedent. There is no precedent for the Federal Government participating financially in the cost of the operation of these compacts and commissions. I think it is a bad precedent. There is no limitation with regard to what the Federal cost will be under this proposal.

Now to distinguish the four compacts that were mentioned.

The Ohio River Valley Water Sanitation Compact is not comparable.

Mr. POFF. Mr. Chairman, will the gentleman yield on the point that he is now discussing?

Mr. CRAMER. I am delighted to yield to my colleague.

Mr. POFF. There are, of course, two budgets involved. One might be called the capital budget and the other the current expense budget. With respect to the current expense budget, the Federal representative by his vote could exercise the veto power if the allocation did not suit him.

Mr. CRAMER. But the gentleman does not deny that the Federal Government would be obligated to the expense account and the operating account once it is approved?

Mr. POFF. If it were once approved, but the Congress would yet have to act upon the appropriation which would be necessary.

Mr. CRAMER. That is correct.

Mr. POFF. The Congress would have to act upon the appropriation which would be necessary to implement the decision.

Mr. CRAMER. I know the gentleman is fully familiar with what their argument is going to be. They will argue, your Federal member voted for it up there on the commission and you are morally obligated and the machinery is all set up in the commission to spend this money and hire all these people and they have to have the money. So, actually, it is a matter that is determined by that voting and the rubberstamp ratification by the Congress means little or nothing in my opinion.

Distinguishing the Ohio River Valley Sanitation Water compact, the transaction of business of the commission and the issuance of orders for abatement of pollution are prerogatives of the State commissioners under that compact to the practical exclusion of the Federal commissioners.

In the Upper Colorado River Basin compact, and I do not have the time to discuss it in detail, but this is the crux of it, the compact neither requires the appointment of a Federal commissioner nor the concurrence by him if appointed in any action which is taken by the commission even though the United States has a special interest in the waters which are subject to this compact because of the treaty between the United States and Mexico.

There is a definite Federal interest to be considered as existing. In the Potomac River compact there is a Federal interest, but even in that instance of an existing Federal interest, the Federal participation is limited.

In the Yellowstone River compact the Federal representative has no vote unless the two State members should fail to agree.

So these are all very easily distinguished, and they are the only 4 instances of the 140 compacts in which the Federal representative has a limited voting right not comparable to the Delaware compact before us.

I discuss in greater detail these distinguishing features:

The Ohio River Valley Water Sanitation Compact (54 Stat. 752) created a commission for the prevention of pollution, which commission is composed of 24 State commissioners, 3 from each of eight States, and 3 commissioners appointed by the President of the United States. Even if the Federal commissioners do vote, their votes have little, if any, significance. The Federal commissioners are not counted in establishing a quorum for the transaction of business, and the only provision of the Compact relative to voting is that no order for the abatement of pollution shall go into



effect unless it receives the assent of a majority of the commissioners from each of a majority of the signatory States, and that no such order upon a municipality, corporation, person or entity in any State shall go into effect unless it receives the assent of a majority of the commissioners from such State. Thus, the transaction of business of the commission and the issuance of orders for the abatement of pollution are the prerogatives of the State commissioners, to the practical exclusion of the Federal commissioners. In fact, it is difficult to visualize what purpose is served by voting of the Federal commissioners, for their voting voices are so weak as to go unheard. Whereas, the proposed compact, which would be approved by H.R. 30, establishes a commission consisting of six State members and seven Federal members, and no action can be taken by the commission without the affirmative vote of one or more Federal members.

The Upper Colorado River Basin compact (63 Stat. 31), which provides for the equitable division and apportionment of the use of waters of the Colorado River system, established a commission composed of one commissioner from each of four of the five signatory States. The compact authorizes a Federal voting commissioner, if the President of the United States, in his discretion, should designate one. The compact neither requires the appointment of a Federal commissioner nor concurrence by him, if appointed, in any action taken by the commission, even though the United States has a special interest in the waters which are the subject of this compact, because of obligations of the United States to Mexico under a treaty between the United States of America and the United Mexican States, dated February 3, 1944, which provides for the allotment of water to Mexico. To the contrary, the commission to be created under H.R. 30 can take no action without the concurrence of one or more Federal members, in spite of the fact that the United States has no special interest in the subject of the compact.

The District of Columbia is a signatory of the Potomac River Basin compact (54 Stat. 748), and participation by Federal voting members on the commission created by this compact is directed to matters primarily of local concern because of the exclusive jurisdiction of the United States within the District of Columbia. Furthermore, voting by the Federal members could not have the effect of imposing unwanted policy decision upon any party to the compact, for no such decision of the commission is binding upon any signatory body unless a majority of the commissioners of that body vote in favor thereof. In the northeastern region the situation is entirely different, for the functions of the United States with which the proposed commission would deal are matters of national concern, not related to any limited area as to which only the United States may legislate concerning local matters. Also, under the provisions of H.R. 30, assent of some Federal members is a prerequisite to any action by the commission, and

as to internal management of the commission the will of the Federal members, who constitute a majority of the commission, can prevail over the opposition of all the State members.

The Yellowstone River compact (65 Stat. 663), which provides for the equitable division and apportionment of the waters of the Yellowstone River and its tributaries, created a commission composed of one representative from each of two states and one representative selected by the Director of the United States Geological Survey, or whatever Federal agency shall succeed to its functions and duties. The Federal representative has no vote unless the two state members should fail to agree, in which event the Federal representative may vote upon the matters in disagreement only, to break the tie vote. The distinction between this very restricted provision and the required, if not dominant, role of the Federal members in all actions to be taken by the commission established in H.R. 30 is obvious.

What is the position of the Departments with regard to this bill? It is interesting to note that recommendations by the Departments have not been received. This is referred to on page 18 of the report. "The committee has received no reports from the Federal agencies with regard to this compact. They requested a delay in order to develop a policy position on the legislation." We will not give them an opportunity to develop that policy position.

The reason they want to develop a position is that this is one of the most complicated pieces of this type of legislation one could conceive, because it cuts across the very thing the gentleman from Pennsylvania brought out so skillfully—it cuts across the jurisdiction of some 17 or 18 Federal agencies, and in order to coordinate their thinking and write it into law, as this attempts to do with regard to all policies considering water resource matters, it obviously is going to take time to come up with a sound constructive solution that is fair to all concerned.

This bill is here prematurely. What I am trying to do is to correct obvious defects in the bill, to see that the Federal Government is not improperly obligated or committed to policies that may be at variance with Federal interests and positions.

As I say, there are 17 or 18 agencies of the Federal Government whose jurisdiction this cuts across. The Department of the Interior points out grave questions involved, and even the Department of Justice is opposed. As a matter of fact, the Department of Justice even raised what they call a constitutional question concerning it. Here is what the Department of Justice had to say.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. CRAMER. I understand the gentleman from Pennsylvania does not believe a constitutional issue is raised. The Department of Justice said:

The wisdom and possibly the constitutionality of such a radical departure from compact precedent which will be established by the bill—

Meaning the bill of the gentleman from Massachusetts—

is subject to grave question when it is realized that the powers of the State representatives can derive only from the reserve powers of the States, and the powers of the Federal representative must be grounded only on the delegated powers of the United States. A State cannot bargain away its reserved powers to the National Government, nor can the United States surrender its delegated powers to State control. Similarly, it would seem equally true that neither the States nor the United States can bargain away their respective types of power to a new kind of Federal-State creature.

That was a memorandum delivered to me by the Department of Justice, and it is contained in the minority report on the bill.

Now, if the gentleman from Pennsylvania desires, I will yield to him.

Mr. WALTER. Is not the gentleman really reading from a report on a bill that was abandoned and a new bill reported?

Mr. CRAMER. It is precisely the same bill as was reported last year. It is the same language involving exactly the same issue: Should there be a Federal member on an interstate compact? And in this instance it is even more aggravated, because in this Delaware Compact it is an operating compact and not as in the Northeast Compact just an advisory compact. I trust that the amendments I shall offer will be adopted, because they are friendly amendments. I am for the compact, but only if in proper form.

Mr. POFF. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. RAY].

(Mr. RAY asked and was given permission to revise and extend his remarks.)

Mr. RAY. Mr. Chairman, I had expected to need quite a little time to talk about this resolution but I do not need to do that.

I agree with what the gentleman from Pennsylvania has said about interstate compact features, also with what the Members from Virginia and from Florida had to say on that same subject. It is not necessary for me to repeat what they have said, and I do not think I can add anything to their statements on what the bill is intended to do and what its language provides.

My colleague from Florida will, as he says, offer an amendment to take away voting rights from, and make sure there are no voting rights, in the Commissioner appointed by the President. The amendment I intend to offer will go further. It will take the Federal Government out of the active management of the operations of this Commission.

The subject matter of the joint resolution is extremely important. It provides not for Federal approval of an interstate compact, but, as the report says on page 3, would make the Federal Government a participating partner, a sort of senior partner in a single agency. By its terms the compact would continue for 100 years, subject to some reservations, and it provides for a commission of five members, one to be appointed by



the President and one to come from each of the four States.

The resolution provides for planning and operation with respect to such broad subjects as water supply, pollution control, flood protection, watershed management, recreation, hydroelectric power and withdrawals and diversions of water. It also contains provisions as to intergovernmental relations, capital financing, comprehensive planning, program, budgets and many other matters.

At the appropriate time I shall offer an amendment which is designed to take the Federal Government out of the operating control of this interstate compact. It goes beyond the voting rights limitation proposed by my colleague from Florida.

Mr. POFF. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania [Mr. SAYLOR].

(Mr. SAYLOR asked and was given permission to revise and extend his remarks.)

Mr. SAYLOR. Mr. Chairman, as a matter of background and for establishing the record, I would like briefly to give some material and information on the studies that have gone into the formation of the present compact.

Twice during the 1920's the States of New York, New Jersey, and Pennsylvania endeavored to form a tristate compact for control of the waters of the Delaware River. These efforts failed, and in the early 1930's the Corps of Army Engineers was assigned the task of making an overall survey of the waters of the Delaware River. They filed their 308 report late in 1933, and it lay dormant from that time until 1950. In 1950 the Army Engineers were asked to review and to bring up to date their 308 report on the Delaware River. It seems that just about the time the Army Engineers had their report ready to file, two tropical storms appeared in late 1955 causing untold flood damage in the Delaware River Basin. These floods and storms furnished entirely new problems and caused the Army Engineers to again ask for an extension of time to give a complete and comprehensive report. They had just about completed their work in the summer of 1957 when that area was again visited, not a flood or storm this time, but an unprecedented drought.

Mr. WALTER. Mr. Chairman, will the gentleman yield?

Mr. SAYLOR. I yield to the gentleman from Pennsylvania.

Mr. WALTER. The gentleman mentioned the 308 report. Is it not a fact that the 308 report was prepared as far back as 1933?

Mr. SAYLOR. The first report was filed in 1933.

Mr. WALTER. So actually what this compact is is a revision and a review in bringing up to date the recommendations made in 1933.

Mr. SAYLOR. That is correct.

In 1957 the House Committee on Public Works again requested a review by the Army Engineers and they did file their 308 report and then again made another survey and brought that up to date.

Now, I give this background to show that the problems of the Delaware River have been studied by both the States and the Federal Government. I am satisfied that if the Governors of the four States that are involved would have only included a representative from the Federal Government when they set up the original Delaware River Basin Commission, we might have avoided a great deal of the confusion that has resulted.

The Delaware River Basin Commission is composed of six members, one appointed by each of the Governors of New York, New Jersey, Delaware, and Pennsylvania, one by the mayor of New York, and one by the mayor of Philadelphia. This commission, together with the research branch of the University of Syracuse, made studies that formed the basis of the present proposed Delaware River compact. The Members of the House will recall that earlier this month I sent to each Member of the House a letter containing 21 questions which the chairman of the House Committee on Interior and Insular Affairs and myself had raised with regard to this compact. We raised these questions because we felt that this was entirely new ground; a compact with the States and the Federal Government as equal partners. For this type of a compact there was no precedent, and each one of the cases that have been cited where the Federal Government had a representative on a commission is not analogous and therefore that we wanted to make sure that the position of the Federal Government in the Delaware River compact was clearly understood.

The chairman of the Judiciary Subcommittee [Mr. WALTER] asked his staff on the Judiciary Committee to prepare answers to the questions. In a colloquy which occurred just a few minutes ago he assured the members of this committee that the 21 questions, together with the answers, will be placed in the RECORD.

As a result of those questions, the House Judiciary Committee has a number of amendments which they will offer. These amendments, together with the answers to the questions, I think fully protect the interests of the Federal Government, the States, and the water users, and will make sure that the rights of the Federal Government and the rights of the States and the water users are clearly defined. With this, even though it is new territory, even though it is unprecedented, I think the Judiciary Committee and the Members of this House are to be commended for having had the courage to look at a new field. After all, we may live for a long period of time without food, but it is absolutely impossible to live without water. I am satisfied that the basin approach, with the cooperation of the States and Federal Government in each instance, is the only real solution to the water problems of this country.

While this is the first of the proposals which take the Federal Government in as a partner, I think that the investigation which has been done by the Judiciary Committee, the investigation which

has been done by the Interior and Insular Affairs Committee, have made this a good bill, and I certainly hope that with this history that we are establishing that this bill will be passed and this Commission will be able to operate.

I am interested in noting that the Delaware River Basin Commission has announced that, if authorized, the first project which it would undertake is the completion or putting into effect of the comprehensive plan which the Army Engineers have just completed for the Delaware River Basin. This is not, with the explanations that have now been presented, an abdication of authority. This is merely a cooperative movement wherein the States are exercising the rights which have been retained to them under the Constitution and cooperating with the Federal Government in the operation of those functions of the Federal Government which have been delegated to them by the Constitution.

I think the bill with the amendments is a tremendous step forward. It will mean that the States of New York and New Jersey that are now authorized by Federal court order to withdraw 900 million gallons of water a day from the Delaware River will be sure that regardless of flood or drought they will have that supply, and that the rights of the communities that depend upon the Delaware River and its tributaries for their water supply and for their industrial and municipal needs will have an assured water supply for the future, and that this great area of our country shall continue to grow—to produce—and keep pace with the rest of the country.

Mr. POFF. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania [Mr. SCHWEIKER].

Mr. SCHWEIKER. Mr. Chairman, I rise in support of House Joint Resolution 225, to establish the Delaware River Basin compact.

The history and development of this compact is a long and varied one. As far back as the 1920's, people interested in water resources and conservation realized that an overall plan for water conservation and use should be developed for the Delaware River Valley. Over the decades, however, there have been a number of disputes among the States and the various regulatory bodies of the Delaware River Valley, so that no real progress in developing an overall plan for the Delaware River Basin was made until recently.

To illustrate the confusion and differences of opinion that have existed over the years, it would be well to point out that there are today 19 Federal bodies having some type of water jurisdiction in this area, 57 interstate bodies and over 250 public and private water companies. Little wonder that these groups have had difficulty agreeing on a practical program.

The area of the Delaware River Basin includes 12,765 square miles and 22 million people. It represents 1 percent of the land area of the United States, 12 percent of its population, and 20 percent of its national income.



Our great population increase in the Delaware River Basin has significantly intensified the problem. When our forefathers first came to this area, there were only about 1,000 Indians making use of its water resources and woodlands. From that sparse group, the region has grown to its present size of 22 million people. It is estimated by 1980 that it will reach the 30 million mark; and by 2010 over 40 million people will inhabit the Delaware River Valley.

The industrial growth of this area was a prime factor in our country's early leadership as an industrial nation. It is further estimated that our present rate of industrial growth will double by 1980.

With such a heavily populated area, and so many Federal and State water groups concerned, it is more logical to develop the area according to the natural unit of water supply. This natural unit of water supply is the Delaware River Basin. Of course, this transcends local and State governments and, therefore, logically calls for a joint effort on the parts of the States of New York, New Jersey, Delaware, and Pennsylvania, as well as the Federal Government. A regional solution to this problem is the only practical answer.

In the past we have seen the tremendous damage that floods and hurricanes can do to our area. As recently as 1955, Hurricane Diane stormed up the Delaware Valley and caused \$100 million of damages to homes, farms, factories, and communities and, far worse, 100 people lost their lives in this disaster. This type of flood damage has occurred eight times in this century.

In addition to floods, the Delaware River Basin has also been exposed to droughts, the more recent ones occurring in 1948, 1949, and 1957. These occurred because of the lack of development of proper plans for water conservation and flood control.

My own congressional district of Montgomery County has felt the effects of both the floods and the droughts. During Hurricane Diane, some of the people who lost their lives perished only a few miles from my home.

My home community of Lansdale was one of the worst hit in the drought of 1957. Our municipal water company was forced to drastically curtail its services and ration water as a result of the 1957 drought. Other water companies in our area had similar experiences.

My community of Lansdale always feels the first impact of a drought. This occurs because our town lies at the crest of three watersheds—the Neshaminy, the Wissahickon, and the Perkiomen. A lowering of the ground water table is felt first in our area because of its unique geographical position. Actually, my community is a harbinger of the drought for the rest of our county. Because of our county's large population and industrial growth in the past decade, our water requirements have increased many times. Our county's growth is not unique, and many communities in the Delaware Valley face similar water problems.

The Delaware River compact is the result of a joint study of the four States involved, as well as the cities of Philadel-

phia and New York. After many months of hard work and study by the Delaware River Basin Advisory Committee, they have produced this compact which is the best all-around answer to the situation. The compact would "establish a five-member commission, comprised of a member from each of the four States, and one from the Federal Government. The compact's purpose is described as follows:

The Commission shall develop and effectuate plans, policies and projects relating to the water resources of the basin. It shall adopt and promote uniform and coordinated policies for water conservation control, use and management in the basin. It shall encourage the planning, development and financing of water resources projects according to such plans and policies.

Some Members of Congress have expressed concern at the 100-year length of the compact, but section 1.4 of the compact very clearly states "that the power and right of the Congress to withdraw the Federal Government as a party to this compact, or to revise or modify the terms, conditions and provisions under which it may remain a party, by amendment, repeal or modification of any Federal statute applicable thereto, is recognized by the signatory parties." In other words, the Congress can withdraw from the compact or change the compact at any time it desires.

Some members have suggested that the compact financially obligates the Federal Government without its knowing what the full cost of this program will be. This also is not correct. Section 12.20 of the compact clearly states:

But nothing in this section shall be deemed to impose any monetary obligation on any of the signatory parties, other than such obligations as may be assumed by a signatory party in connection with a specific project or facility.

Some of my colleagues have argued that we are taking some power away from the States because the Federal Government is one of the five participants in the compact. Actually if this compact, which advocates a joint Federal and State approach, is defeated, then the way is open for Federal proponents to take over the entire operation. This is exactly what some Members of the other body have proposed. Defeating this compact will play into their hands and open the way to complete Federal control of the Delaware River Basin.

In my county of Montgomery, the project has been widely endorsed by county and watershed authorities. These include the Wissahickon Watershed Association, the Neshaminy Valley Watershed Association, the North Penn Water Resources Board, the Montgomery County Commissioners, whose members are of both political parties and the Montgomery County Planning Commission.

In addition the League of Women Voters has long taken a keen interest in water conservation and many of their local chapters have endorsed this project.

In summary, our Delaware Valley has been struggling for nearly 40 years to

establish a coordinated plan for the development and use of our water resources. At long last we have nearly achieved success, since all four State legislatures concerned have already approved the compact. It is important to note that a total of only 11 votes have been cast against this project by the four State legislatures which have approved it.

It is virtually impossible to draw up a compact that would please all of the four States concerned, all of the Federal State, and local bodies, the Members of Congress and all the other people that are concerned with the development of the Delaware River Basin. Some objections can always be raised to any specific plan. However, our valley has labored for 40 years to produce a fair and practical program. This objective has been achieved by this compact. For the future health, safety and welfare of the people of the Delaware Valley, I urge your support of the Delaware River compact.

Mr. POFF. Mr. Chairman, I yield such time as he may require to the gentleman from New York [Mr. OSTERTAG].

Mr. OSTERTAG. Mr. Chairman, I rise in support of this bill (H.J. Res. 225) which is intended to grant consent on the part of Congress to the Delaware River Basin compact.

Before my elections to Congress, I served in the New York State Legislature for a period of 19 years. From the year 1936 to 1950 I had the honor of serving as chairman of the New York Joint Legislative Committee on Interstate Cooperation. In that connection, it was my privilege to participate in the formulation of many interstate agreements. At that time, we formulated a commission known as the Interstate Commission on the Delaware River Basin and commonly known as Incodel. Compact legislation was proposed many times but for one reason or another, the proposal failed in one or more States each time.

Mr. Chairman, there is a great need for this interstate agency and the problems, and I mean interstate problems that warrant attention are many. In fact, I know of no other way to solve them and the need for the creation of this Interstate Agency of the States is great. All of the States involved, namely, Pennsylvania, New Jersey, Delaware, and New York, have enacted this compact, and I am sure that it has the enthusiastic backing of all the States and municipalities involved.

As to the Federal Government participation in this Commission, I can only say that I do not know of any previously created compact having such provisions. This may well be a departure from the basic approach and intent of interstate compacts. I am not exactly sure of the overriding reasons for the inclusion of the Federal Government. The Federal Government has cooperated and worked with many interstate commissions, but I am not aware of any direct involvement as this bill will provide.

I do know that there is a need for this compact commission and I support the plan to ratify it.



Mr. POFF. Mr. Chairman, I have no further requests for time and yield back the balance of my time.

Mr. WALTER. Mr. Chairman, I yield such time as he may require to the gentleman from Pennsylvania [Mr. BYRNE].

Mr. BYRNE of Pennsylvania. Mr. Chairman, I strongly endorse this resolution establishing the Delaware River Basin Compact with the Government of the United States as a participating partner. This compact is of great importance to the people I have the honor to represent in the third district of the State of Pennsylvania in the city of Philadelphia which borders on the Delaware River.

Mr. Chairman, I take this opportunity to commend the distinguished gentleman from Pennsylvania [Mr. WALTER] for his splendid analysis of House Joint Resolution 225 and would like to associate myself with his remarks.

Mr. Chairman, I support this resolution wholeheartedly and urge the House to support it.

Mr. WALTER. Mr. Chairman, I have no further requests for time.

The CHAIRMAN. Under the rule, the joint resolution is considered as having been read and is open for amendment.

The joint resolution (H.J. Res. 225) is as follows:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is hereby given to the States of Delaware, New Jersey, and New York, and the Commonwealth of Pennsylvania, for the compact known as the Delaware River Basin compact, and the United States of America hereby enters into such compact, in the form as follows:*

#### PART I Compact

Whereas the signatory parties recognize the water and related resources of the Delaware basin as regional assets vested with local, state and national interests, for which they have a joint responsibility; and

Whereas the conservation, utilization, development, management and control of the water and related resources of the Delaware River Basin under a comprehensive multipurpose plan will bring the greatest benefits and produce the most efficient service in the public welfare; and

Whereas such a comprehensive plan administered by a basin-wide agency will provide effective flood damage reduction; conservation and development of ground and surface supply for municipal, industrial and agricultural uses; development of recreational facilities in relation to reservoirs, lakes and streams; propagation of fish and game; promotion of related forestry, soil conservation and watershed projects; protection and aid to fisheries dependent upon water resources; development of hydroelectric power potentialities; improved navigation; control of the movement of salt water; abatement and control of stream pollution; and regulation of stream flows toward the attainment of these goals; and

Whereas decisions of the United States Supreme Court relating to the waters of the basin have confirmed the interstate regional character of the water resources of the Delaware River Basin, and the United States Corps of Engineers has in a prior report on the Delaware River Basin (House Document 179, 73d Cong., 2d Sess.) officially recognized the need for an interstate agency and the economies that can result from unified

development and control of the water resources of the basin; and

Whereas the water resources of the basin are presently subject to the duplicating, overlapping and uncoordinated administration of some 43 state agencies, 14 interstate agencies and 19 federal agencies which exercise a multiplicity of powers and duties resulting in a splintering of authority and responsibilities; and

Whereas the joint advisory body known as the Interstate Commission on the Delaware River Basin (INCODEL), created by the respective commissions or committee on interstate cooperation of the States of Delaware, New Jersey, New York and Pennsylvania, has on the basis of its extensive investigations, surveys and studies concluded that regional development of the Delaware River Basin is feasible, advisable, and urgently needed; and has recommended that an interstate compact with Federal participation be consummated to this end; and

Whereas the Congress of the United States and the executive branch of the government have recognized the national interest in the Delaware River Basin by authorizing and directing the Corps of Engineers, U.S. Department of the Army, to make a comprehensive survey and report on the water and related resources of the Delaware River Basin, enlisting the technical aid and planning participation of any federal, state and municipal agencies dealing with the waters of the basin, and in particular the federal departments of Agriculture, Commerce, Health, Education and Welfare, Interior, and Federal Power Commission; and

Whereas some 22,000,000 people of the United States at present live and work in the region of the Delaware River Basin and its environs, and the government, employment, industry, and economic development of the entire region and the health, safety and general welfare of its population are and will continue to be vitally affected by the use, conservation, and management and control of the water and related resources of the Delaware River Basin; and

Whereas demands upon the waters and related resources of the basin are expected to mount rapidly because of the anticipated increase in the population of the region projected to reach 30,000,000 by 1980 and 40,000,000 by 2010, and because of the anticipated increase in industrial growth projected to double by 1980; and

Whereas water resources planning and development is technical, complex and expensive, and has often required fifteen to twenty years from the conception to the completion of a large dam and reservoir; and

Whereas the public interest requires that facilities must be ready and operative when needed, to avoid the catastrophe of unexpected floods or prolonged drought, and for other purposes; and

Whereas the Delaware River Basin Advisory Committee, a temporary body constituted by the governors of the four basin states and the mayors of the cities of New York and Philadelphia, has prepared a draft of an interstate-federal compact for the creation of a basin agency, and the signatory parties desire to effectuate the purposes thereof; Now therefore

The states of Delaware, New Jersey and New York and the Commonwealth of Pennsylvania, and the United States of America hereby solemnly covenant and agree with each other, upon the enactment of concurrent legislation by the Congress of the United States and by the respective state legislatures, having the same effect as this Part, as follows:

#### Article 1

##### Short Title, Definitions, Purpose and Limitations

Section 1.1 Short Title. This act shall be known and may be cited as the Delaware River Basin Compact.

1.2 Definitions. For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(a) "Basin" shall mean the area of drainage into the Delaware River and its tributaries, including Delaware Bay;

(b) "Commission" shall mean the Delaware River Basin Commission created and constituted by this compact;

(c) "Compact" shall mean Part I of this act;

(d) "Cost" shall mean direct and indirect expenditures, commitment, and net induced adverse effects, whether or not compensated for, used or incurred in connection with the establishment, acquisition, construction, maintenance and operation of a project;

(e) "Facility" shall mean any real or personal property, within or without the basin, and improvements thereof or thereon, and any and all rights of way, water, water rights, plants, structures, machinery and equipment, acquired, constructed, operated or maintained for the beneficial use of water resources or related land uses including, without limiting the generality of the foregoing, any and all things and appurtenances necessary, useful or convenient for the control, collection, storage, withdrawal, diversion, release, treatment, transmission, sale or exchange of water; or for navigation thereon, or the development and use of hydroelectric energy and power, and public recreational facilities; or the propagation of fish and wildlife; or to conserve and protect the water resources of the basin or any existing or future water supply source, or to facilitate any other uses of any of them;

(f) "Federal government" shall mean the government of the United States of America, and any appropriate branch, department, bureau or division thereof, as the case may be;

(g) "Project" shall mean any work, service or activity which is separately planned, financed, or identified by the commission, or any separate facility undertaken or to be undertaken within a specified area, for the conservation, utilization, control, development or management of water resources which can be established and utilized independently or as an addition to an existing facility, and can be considered as a separate entity for purposes of evaluation;

(h) "Signatory party" shall mean a state or commonwealth party to this compact, and the federal government;

(i) "Water resources" shall include water and related natural resources in, on, under, or above the ground, including related uses of land, which are subject to beneficial use, ownership or control.

1.3 Purpose and Findings. The legislative bodies of the respective signatory parties hereby find and declare:

(a) The water resources of the basin are affected with a local, state, regional and national interest and their planning, conservation, utilization, development, management and control, under appropriate arrangements for intergovernmental cooperation, are public purposes of the respective signatory parties.

(b) The water resources of the basin are subject to the sovereign right and responsibility of the signatory parties, and it is the purpose of this compact to provide for a joint exercise of such powers of sovereignty in the common interests of the people of the region.

(c) The water resources of the basin are functionally inter-related, and the uses of these resources are interdependent. A single administrative agency is therefore essential for effective and economical direction, supervision and coordination of efforts and programs of federal, state and local governments and of private enterprise.



(d) The water resources of the Delaware River Basin, if properly planned and utilized, are ample to meet all presently projected demands, including existing and added diversions in future years and ever increasing economies and efficiencies in the use and reuse of water resources can be brought about by comprehensive planning, programming and management.

(e) In general, the purpose of this compact are to promote interstate comity; to remove causes of present and future controversy; to make secure and protect present developments within the states; to encourage and provide for the planning, conservation, utilization, development, management and control of the water resources of the basin; to provide for cooperative planning and action by the signatory parties with respect to such water resources; and to apply the principle of equal and uniform treatment to all water users who are similarly situated and to all users of related facilities, without regard to established political boundaries.

**1.4 Powers of Congress; Withdrawal.** Nothing in this compact shall be construed to relinquish the functions, powers or duties of the Congress of the United States with respect to the control of any navigable waters within the basin, nor shall any provision hereof be construed in derogation of any of the constitutional powers of the Congress to regulate commerce among the states and with foreign nations. The powers and right of the Congress to withdraw the federal government as a party to this compact or to revise or modify the terms, conditions and provisions under which it may remain a party by amendment, repeal or modification of any federal statute applicable thereto is recognized by the signatory parties.

**1.5 Existing Agencies; Construction.** It is the purpose of the signatory parties to preserve and utilize the functions, powers and duties of existing offices and agencies of government to the extent not inconsistent with the compact, and the commission is authorized and directed to utilize and employ such offices and agencies for the purpose of this compact to the fullest extent it finds it feasible and advantageous.

#### **1.6 Duration of Compact.**

(a) The duration of this compact shall be for an initial period of 100 years from its effective date, and it shall be continued for additional periods of 100 years if not later than 20 years nor sooner than 25 years prior to the termination of the initial period or any succeeding period none of the signatory states, by authority of an act of its legislature, notifies the commission of intention to terminate the compact at the end of the then current 100 year period.

(b) In the event that this compact should be terminated by operation of paragraph (a) above, the commission shall be dissolved, its assets and liabilities transferred, and its corporate affairs wound up, in such manner as may be provided by act of the Congress.

#### **Article 2**

##### **Organization and Area**

**Section 2.1 Commission Created.** The Delaware River Basin Commission is hereby created as a body politic and corporate, with succession for the duration of this compact, as an agency and instrumentality of the governments of the respective signatory parties.

**2.2 Commission Membership.** The commission shall consist of the Governors of the signatory states, ex officio, and one commissioner to be appointed by the President of the United States to serve during the term of office of the President.

**2.3 Alternates.** Each member of the commission shall appoint an alternate to act in his place and stead, with authority to attend all meetings of the commission, and with power to vote in the absence of the

member. Unless otherwise provided by law of the signatory party for which he is appointed, each alternate shall serve during the term of the member appointing him, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

**2.4 Compensation.** Members of the commission and alternates shall serve without compensation but may be reimbursed for necessary expenses incurred in and incident to the performance of their duties.

**2.5 Voting Power.** Each member shall be entitled to one vote on all matters which may come before the commission. No action of the commission shall be taken at any meeting unless a majority of the membership shall vote in favor thereof.

**2.6 Organization and Procedure.** The commission shall provide for its own organization and procedure, and shall adopt rules and regulations governing its meetings and transactions. It shall organize annually by the election of a chairman and vice-chairman from among its members. It shall provide by its rules for the appointment by each member in his discretion of an advisor to serve without compensation, who may attend all meetings of the commission and its committees.

**2.7 Jurisdiction of the Commission.** The commission shall have, exercise and discharge its functions, powers and duties within the limits of the basin, except that it may in its discretion act outside the basin whenever such action may be necessary or convenient to effectuate its powers or duties within the basin, or to sell or dispose of water, hydroelectric power or other water resources within or without the basin. The commission shall exercise such power outside the basin only upon the consent of the state in which it proposes to act.

#### **Article 3**

##### **Powers and Duties of the Commission**

**Section 3.1 Purpose and Policy.** The commission shall develop and effectuate plans, policies and projects relating to the water resources of the basin. It shall adopt and promote uniform and coordinated policies for water conservation, control, use and management in the basin. It shall encourage the planning, development and financing of water resources projects according to such plans and policies.

**3.2 Comprehensive Plan, Program and Budgets.** The commission shall, in accordance with Article 13 of this compact, formulate and adopt:

(a) A comprehensive plan, after consultation with water users and interested public bodies, for the immediate and long range development and uses of the water resources of the basin;

(b) A water resources program, based upon the comprehensive plan, which shall include a systematic presentation of the quantity and quality of water resources needs of the area to be served for such reasonably foreseeable period as the commission may determine, balanced by existing and proposed projects required to satisfy such needs, including all public and private projects affecting the basin, together with a separate statement of the projects proposed to be undertaken by the commission during such period; and

(c) An annual current expense budget, and an annual capital budget consistent with the water resources program covering the commission's projects and facilities for the budget period.

**3.3 Allocations, Diversions and Releases.** The commission shall have the power from time to time as need appears, in accordance with the doctrine of equitable apportionment, to allocate the waters of the basin to and among the states signatory to this com-

pact and to and among their respective political subdivisions, and to impose conditions, obligations and release requirements related thereto, subject to the following limitations:

(a) The commission, without the unanimous consent of the parties to the United States Supreme Court decree in *New Jersey v. New York*, 347 U.S. 995 (1954), shall not impair, diminish or otherwise adversely affect the diversions, compensating releases, rights, conditions, obligations, and provisions for the administration thereof as provided in said decree; provided, however, that after consultation with the river master under said decree the commission may find and declare a state of emergency resulting from a drought or catastrophe and it may thereupon by unanimous consent of its members authorize and direct an increase or decrease in any allocation or diversion permitted or releases required by the decree, in such manner and for such limited time as may be necessary to meet such an emergency condition.

(b) No allocation of waters hereafter made pursuant to this section shall constitute a prior appropriation of the waters of the basin or confer any superiority of right in respect to the use of those waters, nor shall any such action be deemed to constitute an apportionment of the waters of the basin among the parties hereto; provided that this paragraph shall not be deemed to limit or restrict the power of the commission to enter into covenants with respect to water supply, with a duration not exceeding the life of this compact, as it may deem necessary for the benefit or development of the water resources of the basin.

(c) Any proper party deeming itself aggrieved by action of the commission with respect to an out-of-basin diversion or compensating releases in connection therewith, notwithstanding the powers delegated to the commission by this compact may invoke the original jurisdiction of the United States Supreme Court within one year after such action for an adjudication and determination thereof de novo. Any other action of the commission pursuant to this section shall be subject to judicial review in any court of competent jurisdiction.

**93.4 Supreme Court Decree; Waivers.** Each of the signatory states and their respective political subdivisions, in consideration of like action by the others, and in recognition of reciprocal benefits, hereby waives and relinquishes any right, privilege or power it may have to apply for any modification of the terms of the decree of the United States Supreme Court in *New Jersey v. New York*, 347 U.S. 995 (1954) which would increase or decrease the diversions authorized or increase or decrease the releases required thereunder, except that a proceeding to modify such decree to increase diversions or compensating releases in connection with such increased diversions may be prosecuted by a proper party to effectuate rights, powers, duties and obligations under Section 3.3 of this compact, and except as may be required to effectuate the provisions of paragraphs III B 3 and V B of said decree.

**3.5 Supreme Court Decree; Specific Limitations on Commission.** Except as specifically provided in Sections 3.3 and 3.4 of this article, nothing in this compact shall be construed in any way to impair, diminish or otherwise adversely affect the rights, powers, privileges, conditions and obligations contained in the decree of the United States Supreme Court in *New Jersey v. New York*, 347 U.S. 995 (1954). To this end, and without limitation thereto, the commission shall not:

(a) Acquire, construct or operate any project or facility or make any order or take any action which would impede or interfere with the rights, powers, privileges, conditions or obligations contained in said decree;



(b) Impose or collect any fee, charge or assessment with respect to diversions of waters of the basin permitted by said decree;

(c) Exercise any jurisdiction, except upon consent of all the parties to said decree, over the planning, design, construction, operation, or control of any projects, structures or facilities constructed or used in connection with withdrawals, diversions and releases of waters of the basin authorized by said decree or of the withdrawal, diversions or releases to be made thereunder; or

(d) Serve as river master under said decree, except upon consent of all the parties thereto.

3.6 General Powers. The commission may:

(a) Plan, design, acquire, construct, reconstruct, complete, own, improve, extend, develop, operate and maintain any and all projects, facilities, properties, activities and services, determined by the commission to be necessary, convenient or useful for the purposes of this compact;

(b) Establish standards of planning, design and operation of all projects and facilities in the basin which affect its water resources, including without limitation thereto water and waste treatment plants, stream and lake recreational facilities, trunk mains for water distribution, local flood protection works, small watershed management programs, and ground water recharging operations;

(c) Conduct and sponsor research on water resources, their planning, use, conservation, management, development, control and protection, and the capacity, adaptability and best utility of each facility thereof, and collect, compile, correlate, analyze, report and interpret data on water resources and uses in the basin, including without limitation thereto the relation of water to other resources, industrial water technology, ground water movement, relation between water price and water demand, and general hydrological conditions;

(d) Compile and coordinate systematic stream stage and ground water level forecasting data, and publicize such information when and as needed for water uses, flood warning, quality maintenance or other purposes;

(e) Conduct such special ground water investigations, tests, and operations and compile such data relating thereto as may be required to formulate and administer the comprehensive plan;

(f) Prepare, publish and disseminate information and reports with respect to the water problems of the basin and for the presentation of the needs, resources and policies of the basin to executive and legislative branches of the signatory parties;

(g) Negotiate for such loans, grants, services or other aids as may be lawfully available from public or private sources to finance or assist in effectuating any of the purposes of this compact; and to receive and accept such aid upon such terms and conditions, and subject to such provisions for repayment as may be required by Federal or State law or as the commission may deem necessary or desirable;

(h) Exercise such other and different powers as may be delegated to it by this compact or otherwise pursuant to law, and have and exercise all powers necessary or convenient to carry out its express powers or which may be reasonably implied therefrom.

3.7 Rates and Charges. The commission may from time to time after public notice and hearing fix, alter and revise rates, rentals, charges and tolls and classifications thereof, for the use of facilities which it may own or operate and for products and services rendered thereby, without regulation or control by any department, office or agency of any signatory party.

3.8 Referral and Review. No project having a substantial effect on the water resources of the basin shall hereafter be undertaken by any person, corporation or governmental authority unless it shall have been first submitted to and approved by the commission, subject to the provisions of Sections 3.3 and 3.5. The commission shall approve a project whenever it finds and determines that such project would not substantially impair or conflict with the comprehensive plan and may modify and approve as modified, or may disapprove any such project whenever it finds and determines that the project would substantially impair or conflict with such plan. The commission shall provide by regulation for the procedure of submission, review and consideration of projects, and for its determinations pursuant to this section. Any determination of the commission hereunder shall be subject to judicial review in any court of competent jurisdiction.

3.9 Coordination and Cooperation. The commission shall promote and aid the coordination of the activities and programs of federal, state, municipal and private agencies concerned with water resources administration in the basin. To this end, but without limitation thereto, the commission may:

(a) Advise, consult, contract, financially assist, or otherwise cooperate with any and all such agencies;

(b) Employ any other agency or instrumentality of any of the signatory parties or of any political subdivision thereof, in the design, construction, operation and maintenance of structures, and the installation and management of river control systems, or for any other purpose;

(c) Develop and adopt plans and specifications for particular water resources projects and facilities which so far as consistent with the comprehensive plan incorporate any separate plans of other public and private organizations operating in the basin, and permit the decentralized administration thereof;

(d) Qualify as a sponsoring agency under any federal legislation heretofore or hereafter enacted to provide financial or other assistance for the planning, conservation, utilization, development, management or control of water resources.

3.10 Advisory Committees. The commission may constitute and empower advisory committees, which may be comprised of representatives of the public and of federal, state, county and municipal governments, water resources agencies, water-using industries, water-interest groups, labor and agriculture.

#### Article 4

##### Water Supply

Section 4.1. Generally. The commission shall have power to develop, implement and effectuate plans and projects for the use of the waters of the basin for domestic, municipal, agricultural and industrial water supply. To this end, without limitation thereto, it may provide for, construct, acquire, operate and maintain dams, reservoirs and other facilities for utilization of surface and ground water resources, and all related structures, appurtenances and equipment on the river and its tributaries and at such off-river sites as it may find appropriate, and may regulate and control the use thereof.

##### 4.2. Storage and Release of Waters.

(a) The commission shall have power to acquire, operate and control projects and facilities for the storage and release of waters, for the regulation of flows and supplies of surface and ground waters of the basin, for the protection of public health, stream quality control, economic development, improvement of fisheries, recreation, dilution and abatement of pollution, the prevention of undue salinity and other purposes.

(b) No signatory party shall permit any augmentation of flow to be diminished by the diversion of any water of the basin during any period in which waters are being released from storage under the direction of the commission for the purpose of augmenting such flow, except in cases where such diversion is duly authorized by this compact, or by the commission pursuant thereto, or by the judgment, order or decree of a court of competent jurisdiction.

4.3 Assessable Improvements. The commission may undertake to provide stream regulation in the main stream or any tributary in the basin and may assess on an annual basis or otherwise the cost thereof upon water users or any classification of them specially benefited thereby to a measurable extent, provided that no such assessment shall exceed the actual benefit to any water user. Any such assessment shall follow the procedure prescribed by law for local improvement assessments and shall be subject to judicial review in any court of competent jurisdiction.

4.4 Coordination. Prior to entering upon the execution of any project authorized by this article, the commission shall review and consider all existing rights, plans and programs of the signatory parties, their political subdivisions, private parties, and water users which are pertinent to such project, and shall hold a public hearing on each proposed project.

4.5 Additional Powers. In connection with any project authorized by this article, the commission shall have power to provide storage, treatment, pumping and transmission facilities, but nothing herein shall be construed to authorize the commission to engage in the business of distributing water.

#### Article 5

##### Pollution Control

Section 5.1 General Powers. The commission may undertake investigations and surveys, and acquire, construct, operate and maintain projects and facilities to control potential pollution and abate or dilute existing pollution of the water resources of the basin. It may invoke as complainant the power and jurisdiction of water pollution abatement agencies of the signatory parties.

5.2 Policy and Standards. The commission may assume jurisdiction to control future pollution and abate existing pollution in the waters of the basin, whenever it determines after investigation and public hearing upon due notice that the effectuation of the comprehensive plan so requires. The standard of such control shall be that pollution by sewage or industrial or other waste originating within a signatory State shall not injuriously affect waters of the basin as contemplated by the comprehensive plan. The commission, after such public hearing may classify the waters of the basin and establish standards of treatment of sewage, industrial or other waste, according to such classes including allowance for the variable factors of surface and ground waters, such as size of the stream, flow, movement, location, character, self-purification, and usage of the waters affected. After such investigation, notice and hearing the commission may adopt and from time to time amend and repeal rules, regulations and standards to control such future pollution and abate existing pollution, and to require such treatment of sewage, industrial or other waste within a time reasonable for the construction of the necessary works, as may be required to protect the public health or to preserve the waters of the basin for uses in accordance with the comprehensive plan.

5.3 Cooperative Legislation and Administration. Each of the signatory parties covenants and agrees to prohibit and control pollution of the waters of the basin according to the requirements of this compact and to



cooperate faithfully in the control of future pollution in and abatement of existing pollution from the rivers, streams, and waters in the basin which flow through, under, into or border upon any of such signatory states, and in order to effect such object, agrees to enact any necessary legislation to enable each such party to place and maintain the waters of said basin in a satisfactory condition, available for safe and satisfactory use as public and industrial water supplies after reasonable treatment, suitable for recreational usage, capable of maintaining fish and other aquatic life, free from unsightly or malodorous nuisances due to floating solids or sludge deposits and adaptable to such other uses as may be provided by the comprehensive plan.

**5.4 Enforcement.** The commission may, after investigation and hearing, issue an order or orders upon any person or public or private corporation, or other entity, to cease the discharge of sewage, industrial or other waste into waters of the basin which it determines to be in violation of such rules and regulations as it shall have adopted for the prevention and abatement of pollution. Any such order or orders may prescribe the date, including a reasonable time for the construction of any necessary works, on or before which such discharge shall be wholly or partially discontinued, modified or treated, or otherwise conformed to the requirements of such rules and regulations. Such order shall be reviewable in any court of competent jurisdiction. The courts of the signatory parties shall have jurisdiction to enforce against any person, public or private corporation, or other entity, any and all provisions of this Article or of any such order. The commission may bring an action in its own name in any such court of competent jurisdiction to compel compliance with any provision of this Article, or any rule or regulation issued pursuant thereto or of any such order, according to the practice and procedure of the court.

**5.5 Further Jurisdiction.** Nothing in this compact shall be construed to repeal, modify or qualify the authority of any signatory party to enact any legislation or enforce any additional conditions and restrictions to lessen or prevent the pollution of waters within its jurisdiction.

#### Article 6

##### Flood Protection

**Section 6.1 General Powers.** The commission may plan, design, construct and operate and maintain projects and facilities, as it may deem necessary or desirable for flood damage reduction. It shall have power to operate such facilities and to store and release waters on the Delaware River and its tributaries and elsewhere within the basin, in such manner, at such times, and under such regulations as the commission may deem appropriate to meet flood conditions as they may arise.

##### 6.2 Flood Plain Zoning.

(a) The commission shall have power to adopt, amend and repeal recommended standards, in the manner provided by this section, relating to the nature and extent of the uses of land in areas subject to flooding by waters of the Delaware River and its tributaries. Such standards shall not be deemed to impair or restrict the power of the signatory parties or their political subdivisions to adopt zoning and other land use regulations not inconsistent therewith.

(b) The commission may study and determine the nature and extent of the flood plains of the Delaware River and its tributaries. Upon the basis of such studies, it may establish encroachment lines and delineate the areas subject to flood, including a classification of lands with reference to relative risk of flood and the establishment of standards for flood plain use which will safeguard the public health, safety and prop-

erty. Prior to the adoption of any standards delineating such area or defining such use, the commission shall hold public hearings, in the manner provided by article 14, with respect to the substance of such standards. At or before such public hearings the proposed standards shall be available, and all interested persons shall be given an opportunity to be heard thereon at the hearing. Upon the adoption and promulgation of such standards, the commission may enter into agreements to provide technical and financial aid to any municipal corporation for the administration and enforcement of any local land use ordinances or regulations giving effect to such standards.

**6.3 Flood Lands Acquisition.** The commission shall have power to acquire the fee or any lesser interest in lands and improvements thereon within the area of a flood plain for the purpose of restricting the use of such property so as to minimize the flood hazard, converting property to uses appropriate to flood plain conditions, or preventing unwarranted constrictions that reduce the ability of the river channel to carry flood water. Any such action shall be in accord with the standards adopted and promulgated pursuant to Section 6.2.

**6.4 Flood and Stream Stage Warnings and Posting.** The commission may cause lands particularly subject to flood to be posted with flood hazard warnings, and may from time to time cause flood advisory notices to be published and circulated as conditions may warrant.

#### Article 7

##### Watershed Management

**Section 7.1 Watersheds Generally.** The commission shall promote sound practices of watershed management in the basin, including projects and facilities to retard runoff and waterflow and prevent soil erosion.

**7.2 Soil Conservation and Forestry.** The commission may acquire, sponsor or operate facilities and projects to encourage soil conservation, prevent and control erosion, and to promote land reclamation and sound forestry practices.

**7.3 Fish and Wildlife.** The commission may acquire, sponsor or operate projects and facilities for the maintenance and improvement of fish and wildlife habitats related to the water resources of the basin.

##### 7.4 Cooperative Planning and Operation.

(a) The commission shall cooperate with the appropriate agencies of the signatory parties and with other public and private agencies in the planning and effectuation of a coordinated program of facilities and projects authorized by this Article.

(b) The commission shall not operate any such project or facility unless it has first found and determined that no other suitable unit or agency of government is available to operate the same upon reasonable conditions, in accordance with the intent and purpose expressed in Section 1.5 of this compact.

#### Article 8

##### Recreation

**Section 8.1 Development.** The commission shall provide for the development of water related public sports and recreational facilities. The commission on its own account or in cooperation with a signatory party, political subdivision or any agency thereof, may provide for the construction, maintenance and administration of such facilities, subject to the provisions of Section 8.2 hereof.

##### 8.2 Cooperative Planning and Operation.

(a) The commission shall cooperate with the appropriate agencies of the signatory parties and with other public and private agencies in the planning and effectuation of a coordinated program of facilities and projects authorized by this article.

(b) The commission shall not operate any such project or facility unless it has first

found and determined that no other suitable unit or agency of government is available to operate the same upon reasonable conditions, in accordance with the intent and purpose expressed in Section 1.5 of this compact.

**8.3 Operation and Maintenance.** The commission within limits prescribed by this article, shall:

(a) Encourage activities of other public agencies having water related recreational interests and assist in the coordination thereof;

(b) Recommend standards for the development and administration of water related recreational facilities;

(c) Provide for the administration, operation and maintenance of recreational facilities owned or controlled by the commission and for the letting and supervision of private concessions in accordance with this article.

**8.4 Concessions.** The commission shall after notice and public hearing provide by regulation for the award of contracts for private concessions in connection with recreational facilities, including any renewal or extension thereof, upon sealed competitive bids after public advertisement therefor.

#### Article 9

##### Hydroelectric Power

**Section 9.1 Development.** The waters of the Delaware River and its tributaries may be impounded and used by or under authority of the commission for the generation of hydroelectric power and hydroelectric energy, in accordance with the comprehensive plan.

**9.2 Power Generation.** The commission may develop and operate, or authorize to be developed and operated, dams and related facilities and appurtenances for the purpose of generating hydroelectric power and hydroelectric energy.

**9.3 Transmission.** The commission may provide facilities for the transmission of hydroelectric power and hydroelectric energy produced by it where such facilities are not otherwise available upon reasonable terms, for the purpose of wholesale marketing of power and nothing herein shall be construed to authorize the commission to engage in the business of direct sale to consumers.

**9.4 Development Contracts.** The commission may after public notice and hearing enter into contracts on reasonable terms, consideration and duration under which public utilities or public agencies may develop hydroelectric power and hydroelectric energy through the use of dams, related facilities and appurtenances.

**9.5 Rates and Charges.** Rates and charges fixed by the commission for power which is produced by its facilities shall be reasonable, nondiscriminatory, and just.

#### Article 10

##### Regulation of Withdrawals and Diversions

**Section 10.1 Power of Regulation.** The commission may regulate and control withdrawals and diversions from surface waters and ground waters of the basin, as provided by this article. The commission may enter into agreements with the signatory parties relating to the exercises of such power of regulation or control and may delegate to any of them such powers of the commission as it may deem necessary or desirable.

**10.2 Determination of Protected Areas.** The commission may from time to time after public hearing upon due notice determine and delineate such areas within the basin wherein the demands upon supply made by water users have developed or threaten to develop to such a degree as to create a water shortage or to impair or conflict with the requirements or effectuation of the comprehensive plan, and any such areas may be designated as "protected areas." The commission, whenever it determines that such shortage no longer exists, shall terminate the protected status of such area and shall give public notice of such termination.



10.3 Withdrawal Permits. In any protected areas so determined and delineated, no person, firm, corporation or other entity shall divert or withdraw water for domestic, municipal, agricultural or industrial uses in excess of such quantities as the commission may prescribe by general regulation, except (i) pursuant to a permit granted under this article, or (ii) pursuant to a permit or approval heretofore granted under the laws of any of the signatory states.

10.4 Emergency. In the event of a drought or other condition which may cause an actual and immediate shortage of available water supply within the basin, or within any part thereof, the commission may, after public hearing, determine and delineate the area of such shortage and declare a water supply emergency therein. For the duration of such emergency as determined by the commission no person, firm, corporation or other public or private entity shall divert or withdraw water for any purpose, in excess of such quantities as the commission may prescribe by general regulation or authorize by special permit granted hereunder.

10.5 Standards. Permits shall be granted, modified or denied as the case may be so as to avoid such depletion of the natural stream flows and ground waters in the protected area or in an emergency area as will adversely affect the comprehensive plan or the just and equitable interests and rights of other lawful users of the same source, giving due regard to the need to balance and reconcile alternative and conflicting uses in the event of an actual or threatened shortage of water of the quality required.

10.6 Judicial Review. The determinations and delineations of the commission pursuant to Section 10.2 and the granting, modification or denial of permits pursuant to Section 10.3 through 10.5 shall be subject to judicial review in any court of competent jurisdiction.

10.7 Maintenance of Records. Each state shall provide for the maintenance and preservation of such records of authorized diversions and withdrawals and the annual volume thereof as the commission shall prescribe. Such records and supplementary reports shall be furnished to the commission at its request.

10.8 Existing State Systems. Whenever the commission finds it necessary or desirable to exercise the powers conferred by this article any diversion or withdrawal permits authorized or issued under the laws of any of the signatory states shall be superseded to the extent of any conflict with the control and regulation exercised by the commission.

#### Article 11

##### Intergovernmental Relations

Section 11.1 Federal Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern federal projects affecting the water resources of the basin, subject in each case to the provisions of Section 1.4 of this compact:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the commission in the comprehensive plan;

(c) Each federal agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section.

11.2 State and Local Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern projects of the signatory states, their political subdivisions and public corporation affecting water resources of the basin:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility unless it shall have first been included by the commission in the comprehensive plan;

(c) Each state and local agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority, except as specifically provided by this section.

11.3 Reserved Taxing Powers of States. Each of the signatory parties reserves the right to levy, assess and collect fees, charges and taxes on or measured by the withdrawal or diversion of waters of the basin for use within the jurisdictions of the respective signatory parties.

11.4 Project Costs and Evaluation Standards. The commission shall establish uniform standards and procedures for the evaluation, determination of benefits, and cost allocations of projects affecting the basin, and for the determination of project priorities, pursuant to the requirements of the comprehensive plan and its water resources program. The commission shall develop equitable cost sharing and reimbursement formulas for the signatory parties including:

(a) Uniform and consistent procedures for the allocation of project costs among purposes included in multiple-purpose programs;

(b) Contracts and arrangements for sharing financial responsibility among and with signatory parties, public bodies, groups and private enterprise, and for the supervision of their performance;

(c) Establishment and supervision of a system of accounts for reimbursable purposes and directing the payments and charges to be made from such accounts;

(d) Determining the basis and apportioning amounts (i) of reimbursable revenues to be paid signatory parties or their political subdivisions, and (ii) of payments in lieu of taxes to any of them.

11.5 Cooperative Services. The commission shall furnish technical services, advice and consultation to authorized agencies of the signatory parties with respect to the water resources of the basin, and each of the signatory parties pledges itself to provide technical and administrative services to the commission upon request, within the limits of available appropriations and to cooperate generally with the commission for the purposes of this compact, and the cost of such services may be reimbursable whenever the parties deem appropriate.

#### Article 12

##### Capital Financing

Section 12.1 Borrowing Power. The commission may borrow money for any of the purposes of this compact, and may issue its negotiable bonds and other evidences of indebtedness in respect thereto. All such bonds and evidences of indebtedness shall be payable solely out of the properties and revenues of the commission without recourse to taxation. The bonds and other obligations of the commission, except as may be otherwise provided in the indenture

under which they were issued, shall be direct and general obligations of the commission and the full faith and credit of the commission are hereby pledged for the prompt payment of the debt service thereon and for the fulfillment of all other undertakings of the commission assumed by it to or for the benefit of the holders thereof.

12.2 Funds and Expenses. The purposes of this compact shall include without limitation thereto all costs of any project or facility or any part thereof, including interest during a period of construction and a reasonable time thereafter and any incidental expenses (legal, engineering, fiscal, financial consultant and other expenses) connected with issuing and disposing of the bonds; all amounts required for the creation of an operating fund, construction fund, reserve fund, sinking fund, or other special fund; all other expenses connected with the planning, design, acquisition, construction, completion, improvement or reconstruction of any facility or any part thereof; and reimbursement of advances by the commission or by others for such purposes and for working capital.

12.3 Credit Excluded; Officers, State and Municipal. The commission shall have no power to pledge the credit of any signatory party, or of any county or municipality, or to impose any obligation for payment of the bonds upon any signatory party or any county or municipality. Neither the commissioners nor any person executing the bonds shall be liable personally on the bonds of the commission or be subject to any personal liability or accountability by reason of the issuance thereof.

12.4 Funding and Refunding. Whenever the commission deems it expedient, it may fund and refund its bonds and other obligations whether or not such bonds and obligations have matured. It may provide for the issuance, sale or exchange of refunding bonds for the purpose of redeeming or retiring any bonds (including the payment of any premium, duplicate interest or cash adjustment required in connection therewith) issued by the commission or issued by any other issuing body, the proceeds of the sale of which have been applied to any facility acquired by the commission or which are payable out of the revenues of any facility acquired by the commission. Bonds may be issued partly to refund bonds and other obligations then outstanding, and partly for any other purpose of the commission. All provisions of this compact applicable to the issuance of bonds are applicable to refunding bonds and to the issuance, sale or exchange thereof.

12.5 Bonds. Authorization Generally. Bonds and other indebtedness of the commission shall be authorized by resolution of the commission. The validity of the authorization and issuance of any bonds by the commission shall not be dependent upon nor affected in any way by: (i) the disposition of bond proceeds by the commission or by contract, commitment or action taken with respect to such proceeds; or (ii) the failure to complete any part of the project for which bonds are authorized to be issued. The commission may issue bonds in one or more series and may provide for one or more consolidated bond issues, in such principal amounts and with such terms and provisions as the commission may deem necessary. The bonds may be secured by a pledge of all or any part of the property, revenues and franchises under its control. Bonds may be issued by the commission in such amount, with such maturities and in such denominations and form or forms, whether coupon or registered, as to both principal and interest, as may be determined by the commission. The commission may provide for redemption of bonds prior to maturity on such no-



tice and at such time or times and with such redemption provisions, including premiums, as the commission may determine.

**12.6 Bonds. Resolutions and Indentures Generally.** The commission may determine and enter into indentures providing for the principal amount, date or dates, maturities, interest rate, denominations, form, registration, transfer, interchange and other provisions of the bonds and coupons and the terms and conditions upon which the same shall be executed, issued, secured, sold, paid, redeemed, funded and refunded. The resolution of the commission authorizing any bond or any indenture so authorized under which the bonds are issued may include all such covenants and other provisions other than any restriction on the regulatory powers vested in the commission by this compact as the commission may deem necessary or desirable for the issue, payment, security, protection or marketing of the bonds, including without limitation covenants and other provisions as to the rates or amounts of fees, rents and other charges to be charged or made for use of the facilities; the use, pledge, custody, securing, application and disposition of such revenues, of the proceeds of the bonds, and of any other moneys of the commission; the operation, maintenance, repair and reconstruction of the facilities and the amounts which may be expended therefor; the sale, lease or other disposition of the facilities; the insuring of the facilities and of the revenues derived therefrom; the construction or other acquisition of other facilities; the issuance of additional bonds or other indebtedness; the rights of the bondholders and of any trustee for the bondholders upon default by the commission or otherwise; and the modification of the provisions of the indenture and of the bonds. Reference on the face of the bonds to such resolution or indenture by its date of adoption or the apparent date on the face thereof is sufficient to incorporate all of the provisions thereof and of this compact into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has recourse to all of the provisions of the indenture and of this compact and is bound thereby.

**12.7 Maximum Maturity.** No bond or its terms shall mature in more than fifty years from its own date and in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date herein authorized shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue.

**12.8 Tax Exemption.** All bonds issued by the commission under the provisions of this compact and the interest thereof shall at all times be free and exempt from all taxation by or under authority of any of the signatory parties, except for transfer, inheritance and estate taxes.

**12.9 Interest.** Bonds shall bear interest at a rate of not to exceed six percent per annum, payable annually or semi-annually.

**12.10 Place of Payment.** The commission may provide for the payment of the principal and interest of bonds at any place or places within or without the signatory states, and in any specified lawful coin or currency of the United States of America.

**12.11 Execution.** The commission may provide for the execution and authentication of bonds by the manual, lithographed or printed facsimile signature of officers of the commission, and by additional authentication by a trustee or fiscal agent appointed by the commission. If any of the officers whose signatures or counter signatures ap-

pear upon the bonds or coupons cease to be officers before the delivery of the bonds or coupons, their signatures or counter signatures are nevertheless valid and of the same force and effect as if the officers had remained in office until the delivery of the bonds and coupons.

**12.12 Holding Own Bonds.** The commission shall have power out of any funds available therefor to purchase its bonds and may hold, cancel or resell such bonds.

**12.13 Sale.** The commission may fix terms and conditions for the sale or other disposition of any authorized issue of bonds. The commission may sell bonds at less than their par or face value but no issue of bonds may be sold at an aggregate price below the par or face value thereof if such sale would result in a net interest cost to the commission calculated upon the entire issue so sold of more than six percent per annum payable semi-annually, according to standard tables of bond values. All bonds issued and sold for cash pursuant to this act shall be sold on sealed proposals to the highest bidder. Prior to such sale, the commission shall advertise for bids by publication of a notice of sale not less than ten days prior to the date of sale, at least once in a newspaper of general circulation printed and published in New York City carrying municipal bond notices and devoted primarily to financial news. The commission may reject any and all bids submitted and may thereafter sell the bonds so advertised for sale at private sale to any financially responsible bidder under such terms and conditions as it deems most advantageous to the public interest, but the bonds shall not be sold at a net interest cost calculated upon the entire issue so advertised, greater than the lowest bid which was rejected. In the event the commission desires to issue its bonds in exchange for an existing facility or portion thereof, or in exchange for bonds secured by the revenues of an existing facility or portion thereof or for the bonds so secured, plus an additional amount of cash, without advertising such bonds for sale.

**12.14 Negotiability.** All bonds issued under the provisions of this compact are negotiable instruments, except when registered in the name of a registered owner.

**12.15 Legal Investments.** Bonds of the commission shall be legal investments for savings banks, fiduciaries and public funds in each of the signatory states.

**12.16 Validation Proceedings.** Prior to the issuance of any bonds, the commission may institute a special proceeding to determine the legality of proceedings to issue the bonds and their validity under the laws of any of the signatory parties. Such proceedings shall be instituted and prosecuted in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against each of the signatory parties.

**12.17 Recording.** No indenture need be recorded or filed in any public office, other than the office of the commission. The pledge of revenues provided in any indenture shall take effect forthwith as provided therein and irrespective of the date of receipt of such revenues by the commission or the indenture trustee. Such pledge shall be effective as provided in the indenture without physical delivery of the revenues to the commission or to the indenture trustee.

**12.18 Pledged Revenues.** Bond redemption and interest payments shall, to the extent provided in the resolution or indenture, constitute a first, direct and exclusive charge and lien on all such rates, rents, tolls, fees and charges and other revenues and interest thereon received from the use and operation of the facility, and on any sinking or other funds created therefrom. All such rates, rents, tolls, fees, charges and other revenues, together with interest thereon, shall constitute a trust fund for the security and payment of such bonds and except as and

to the extent provided in the indenture with respect to the payment therefrom of expenses for other purposes including administration, operation, maintenance, improvements or extensions of the facilities or other purposes shall not be used or pledged for any other purpose so long as such bonds, or any of them, are outstanding and unpaid.

**12.19 Remedies.** The holder of any bond may for the equal benefit and protection of all holders of bonds similarly situated: (a) by mandamus or other appropriate proceedings require and compel the performance of any of the duties imposed upon the commission or assumed by it, its officers, agents or employees under the provisions of any indenture, in connection with the acquisition, construction, operation, maintenance, repair, reconstruction or insurance of the facilities, or in connection with the collection, deposit, investment, application, and disbursement of the rates, rents, tolls, fees, charges and other revenues derived from the operation and use of the facilities, or in connection with the deposit, investment and disbursement of the proceeds received from the sale of bonds; or (b) by action or suit in a court of competent jurisdiction of any signatory party require the commission to account as if it were the trustee of an express trust, or enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds.

**12.20 Capital Financing by Signatory Parties; Guarantees.**

(a) The signatory parties will provide such capital funds required for projects of the commission as may be authorized by their respective statutes in accordance with a cost sharing plan prepared pursuant to Article 11 of this compact; but nothing in this section shall be deemed to impose any mandatory obligation on any of the signatory parties other than such obligations as may be assumed by a signatory party in connection with a specific project or facility.

(b) Bonds of the commission, notwithstanding any other provision of this compact, may be executed and delivered to any duly authorized agency of any of the signatory parties without public offering and may be sold and resold with or without the guarantee of such signatory party, subject to and in accordance with the constitutions of the respective signatory parties.

(c) The commission may receive and accept, and the signatory parties may make, loans, grants, appropriations, advances and payments of reimbursable or non-reimbursable funds or property in any form for the capital or operating purposes of the commission.

#### Article 13

##### Plan, Program and Budgets

**Section 13.1 Comprehensive Plan.** The commission shall develop and adopt, and may from time to time review and revise, a comprehensive plan for the immediate and long range development and use of the water resources of the basin. The plan shall include all public and private projects and facilities which are required, in the judgment of the commission, for the optimum planning, development, conservation, utilization, management and control of the water resources of the basin to meet present and future needs; provided that the plan shall include any projects required to conform with any present or future decree or judgment of any court of competent jurisdiction. The commission may adopt a comprehensive plan or any revision thereof in such part or parts as it may deem appropriate, provided that before the adoption of the plan or any part or revision thereof the commission shall consult with water



users and interested public bodies and public utilities and shall consider and give due regard to the findings and recommendations of the various agencies of the signatory parties and their political subdivisions. The commission shall conduct public hearings with respect to the comprehensive plan prior to the adoption of the plan or any part or revision thereof.

13.2 Water Resources Program. The commission shall annually adopt a water resources program, based upon the comprehensive plan, consisting of the projects and facilities which the commission proposes to be undertaken by the commission and by other authorized governmental and private agencies, organizations and persons during the ensuing six years or such other reasonably foreseeable period as the commission may determine. The water resources program shall include a systematic presentation of:

1) the quantity and quality of water resources needs for such period;

2) the existing and proposed projects and facilities required to satisfy such needs, including all public and private projects to be anticipated;

3) a separate statement of the projects proposed to be undertaken by the commission during such period.

13.3 Annual Current Expense and Capital Budgets.

(a) The commission shall annually adopt a capital budget including all capital projects it proposes to undertake or continue during the budget period containing a statement of the estimated cost of each project and the method of financing thereof.

(b) The commission shall annually adopt a current expense budget for each fiscal year. Such budget shall include the commission's estimated expenses for administration, operation, maintenance and repairs, including a separate statement thereof for each project, together with its cost allocation. The total of such expenses shall be balanced by the commission's estimated revenues from all sources, including the cost allocations undertaken by any of the signatory parties in connection with any project. Following the adoption of the annual current expense budget by the commission, the executive director of the commission shall:

1) certify to the respective signatory parties the amounts due in accordance with existing cost sharing established for each project; and

2) transmit certified copies of such budget to the principal budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures. The amount required to balance the current expense budget in addition to the aggregate amount of item (1) above and all other revenues available to the commission shall be apportioned equitably among the signatory parties by unanimous vote of the commission, and the amount of such apportionment to each signatory party shall be certified together with the budget.

(c) The respective signatory parties covenant and agree to include the amounts so apportioned for the support of the current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the commission in quarterly installments during its fiscal year, provided that the commission may draw upon its working capital to finance its current expense budget pending remittances by the signatory parties.

#### Article 14

##### General Provisions

Section 14.1 Auxiliary Powers of Commission; Functions of Commissioners.

(a) The commission, for the purposes of this compact, may:

1) Adopt and use a corporate seal, enter into contracts, sue and be sued in all courts of competent jurisdiction;

2) Receive and accept such payments, appropriations, grants, gifts, loans, advances and other funds, properties and services as may be transferred or made available to it by any signatory party or by any other public or private corporation or individual, and enter into agreements to make reimbursement for all or part thereof;

3) Provide for, acquire and adopt detailed engineering, administrative, financial and operating plans and specifications to effectuate, maintain or develop any facility or project;

4) Control and regulate the use of facilities owned or operated by the commission;

5) Acquire, own, operate, maintain, control, sell and convey real and personal property and any interest therein by contract, purchase, lease, license, mortgage or otherwise as it may deem necessary for any project or facility, including any and all appurtenances thereto necessary, useful or convenient for such ownership, operation, control, maintenance or conveyance;

6) Have and exercise all corporate powers essential to the declared objects and purposes of the commission.

(b) The commissioners, subject to the provisions of this compact, shall:

1) Serve as the governing body of the commission, and exercise and discharge its powers and duties except as otherwise provided by or pursuant to this compact;

2) Determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid subject to any provisions of law specifically applicable to agencies or instrumentalities created by compact;

3) Provide for the internal organization and administration of the commission;

4) Appoint the principal officers of the commission and delegate to and allocate among them administrative functions, powers and duties;

5) Create and abolish offices, employments and positions as it deems necessary for the purposes of the commission, and subject to the provisions of this article, fix and provide for the qualification, appointment, removal, term, tenure, compensation, pension and retirement rights of its officers and employees;

6) Let and execute contracts to carry out the powers of the commission.

14.2 Regulations; Enforcement. The commission may:

(a) Make and enforce reasonable rules and regulations for the effectuation, application and enforcement of this compact; and it may adopt and enforce practices and schedules for or in connection with the use, maintenance and administration of projects and facilities it may own or operate and any product or service rendered thereby; provided that any rule or regulation, other than one which deals solely with the internal management of the commission, shall be adopted only after public hearing and shall not be effective unless and until filed in accordance with the law of the respective signatory parties applicable to administrative rules and regulations generally; and

(b) Designate any officer, agent or employee of the commission to be an investigator or watchman and such person shall be vested with the powers of a peace officer of the state in which he is duly assigned to perform his duties.

14.3 Tax Exemption. The commission, its property, functions, and activities shall be exempt from taxation by or under the authority of any of the signatory parties or any political subdivision thereof; provided that in lieu of property taxes the commission

shall, as to specific projects, make payments to local taxing districts in annual amounts which shall equal the taxes lawfully assessed upon property for the tax year next prior to its acquisition by the commission for a period of ten years. The nature and amount of such payments shall be reviewed by the commission at the end of ten years, and from time to time thereafter, upon reasonable notice and opportunity to be heard to the affected taxing district, and the payments may be thereupon terminated or continued in such reasonable amount as may be necessary or desirable to take into account hardships incurred and benefits received by the taxing jurisdiction which are attributable to the project.

14.4 Meetings; Public Hearings; Records, Minutes.

(a) All meetings of the commission shall be open to the public.

(b) The commission shall conduct at least one public hearing prior to the adoption of the comprehensive plan, water resources program, annual capital and current expense budgets, the letting of any contract for the sale or other disposition by the commission of hydroelectric energy or water resources to any person, corporation or entity, and in all other cases wherein this compact requires a public hearing. Such hearing shall be held upon at least ten days public notice given by posting at the offices of the commission. The commission shall also provide forthwith for distribution of such notice to the press and by the mailing of a copy thereof to any person who shall request such notices.

(c) The minutes of the commission shall be a public record open to inspection at its offices during regular business hours.

14.5 Officers Generally.

(a) The officers of the commission shall consist of an executive director and such additional officers, deputies and assistants as the commission may determine. The executive director shall be appointed and may be removed by the affirmative vote of a majority of the full membership of the commission. All other officers and employees shall be appointed by the executive director under such rules of procedure as the commission may determine.

(b) In the appointment and promotion of officers and employees for the commission, no political, racial, religious or residence test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be solely on the basis of merit and fitness. Any officer or employee of the commission who is found by the commission to be guilty of a violation of this section shall be removed from office by the commission.

14.6 Oath of Office. An oath of office in such form as the commission shall prescribe shall be taken, subscribed and filed with the commission by the executive director and by each officer appointed by him not later than fifteen days after the appointment.

14.7 Bond. Each officer shall give such bond and in such form and amount as the commission may require for which the commission may pay the premium.

14.8 Prohibited Activities.

(a) No commissioner, officer or employee shall:

1) be financially interested, either directly or indirectly, in any contract, sale, purchase, lease or transfer of real or personal property to which the commission is a party;

2) solicit or accept money or any other thing of value in addition to the compensation or expenses paid him by the commission for services performed within the scope of his official duties;

3) offer money or any thing of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the commission.



(b) Any officer or employee who shall willfully violate any of the provisions of this section shall forfeit his office or employment.

(c) Any contract or agreement knowingly made in contravention of this section is void.

(d) Officers and employees of the commission shall be subject in addition to the provisions of this section to such criminal and civil sanctions for misconduct in office as may be imposed by federal law and the law of the signatory state in which such misconduct occurs.

14.9 Purchasing. Contracts for the construction, reconstruction or improvement of any facility when the expenditure required exceeds ten thousand dollars and contracts for the purchase of services, supplies, equipment and materials when the expenditure required exceeds two thousand five hundred dollars shall be advertised and let upon sealed bids to the lowest responsible bidder. Notice requesting such bids shall be published in a manner reasonably likely to attract prospective bidders, which publication shall be made at least ten days before bids are received and in at least two newspapers of general circulation in the basin. The commission may reject any and all bids and readvertise in its discretion. If after rejecting bids the commission determines and resolves that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the commission may give each responsible bidder an opportunity to negotiate a price and may proceed to purchase the supplies, equipment and materials in the open market at a negotiated price which is lower than the lowest rejected bid of a responsible bidder, without further observance of the provisions requiring bids or notice. The commission shall adopt rules and regulations to provide for purchasing from the lowest responsible bidder when sealed bids, notice and publication are not required by this section. The commission may suspend and waive the provisions of this section requiring competitive bids whenever:

1) the purchase is to be made from or the contract to be made with the federal or any state government or any agency or political subdivision thereof or pursuant to any open end bulk purchase contract of any of them;

2) the public exigency requires the immediate delivery of the articles or performance of the service;

3) only one source of supply is available;

4) the equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest; or

5) services are to be provided of a specialized or professional nature.

14.10 Insurance. The commission may self-insure or purchase insurance and pay the premiums therefor against loss or damage to any of its properties; against liability for injury to persons or property; and against loss of revenue from any cause whatsoever. Such insurance coverage shall be in such form and amount as the commission may determine, subject to the requirements of any agreement arising out of the issuance of bonds by the commission.

#### 14.11 Annual Independent Audit.

(a) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial accounts of the commission. The audit shall be made by qualified certified public accountants selected by the commission, who have no personal interest direct or indirect in the financial affairs of the commission or any of its officers or employees. The report of audit shall be prepared in accordance with accepted accounting practices and shall be filed with the chairman and such other officers as the commission shall direct. Copies of the re-

port shall be distributed to each commissioner and shall be made available for public distribution.

(b) Each signatory party by its duly authorized officers shall be entitled to examine and audit at any time all of the books, documents, records, files and accounts and all other papers, things or property of the commission. The representatives of the signatory parties shall have access to all books, documents, records, accounts, reports, files and all other papers, things or property belonging to or in use by the commission and necessary to facilitate the audit and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents and custodians.

(c) The financial transactions of the commission shall be subject to audit by the general accounting office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the comptroller general of the United States. The audit shall be conducted at the place or places where the accounts of the commission are kept.

(d) Any officer or employee who shall refuse to give all required assistance and information to the accountants selected by the commission or to the authorized officers of any signatory party or who shall refuse to submit to them for examination such books, documents, records, files, accounts, papers, things or property as may be requested shall forfeit his office.

14.12 Reports. The commission shall make and publish an annual report to the legislative bodies of the signatory parties and to the public reporting on its programs, operations and finances. It may also prepare, publish and distribute such other public reports and informational materials as it may deem necessary or desirable.

#### 14.13 Grants, Loans or Payments by States or Political Subdivisions.

(a) Any or all of the signatory parties or any political subdivision thereof may:

1) Appropriate to the commission such funds as may be necessary to pay preliminary expenses such as the expenses incurred in the making of borings, and other studies of subsurface conditions, in the preparation of contracts for the sale of water in the preparation of detailed plans and estimates required for the financing of a project;

2) Advance to the commission, either as grants or loans, such funds as may be necessary or convenient to finance the operation and management of or construction by the commission of any facility or project;

3) Make payments to the commission for benefits received or to be received from the operation of any of the projects or facilities of the commission.

(b) Any funds which may be loaned to the commission either by a signatory party or a political subdivision thereof shall be repaid by the commission through the issuance of bonds or out of other income of the commission, such repayment to be made within such period and upon such terms as may be agreed upon between the commission and the signatory party or political subdivision making the loan.

#### 14.14 Condemnation Proceedings.

(a) The commission shall have the power to acquire by condemnation the fee or any lesser interest in lands, lands lying under water, development rights in land, riparian rights, water rights, waters and other real or personal property within the basin for any project or facility authorized pursuant to this compact. This grant of power of eminent domain includes but is not limited to the power to condemn for the purposes of this compact any property already devoted to a public use, by whomso-

ever owned or held, other than property of a signatory party and any property held, constructed, operated or maintained in connection with a diversion authorized by a United States Supreme Court decree. Any condemnation of any property or franchises owned or used by a municipal or privately owned public utility, unless the affected public utility facility is to be relocated or replaced, shall be subject to the authority of such state board, commission, or other body as may have regulatory jurisdiction over such public utility.

(b) Such power of condemnation shall be exercised in accordance with the provisions of any federal law applicable to the commission; provided that if there is no such applicable federal law, condemnation proceedings shall be in accordance with the provisions of such general state condemnation law as may be in force in the signatory state in which the property is located.

(c) Any award or compensation for the taking of property pursuant to this article shall be paid by the commission, and none of the signatory parties nor any other agency, instrumentality or political subdivision thereof shall be liable for such award or compensation.

#### 14.15 Conveyance of Lands and Relocation of Public Facilities.

(a) The respective officers, agencies, departments, commissions or bodies having jurisdiction and control over real and personal property owned by the signatory parties are authorized and empowered to transfer and convey in accordance with the laws of the respective parties to the commission any such property as may be necessary or convenient to the effectuation of the authorized purposes of the commission.

(b) Each political subdivision of each of the signatory parties is authorized and empowered, notwithstanding any contrary provision of law, to grant and convey to the commission, upon the commission's request, any real property or any interest therein owned by such political subdivision including lands lying under water and lands already devoted to public use which may be necessary or convenient to the effectuation of the authorized purposes of the commission.

(c) Any highway, public utility or other public facility which will be dislocated by reason of a project deemed necessary by the commission to effectuate the authorized purposes of this compact shall be relocated and the cost thereof shall be paid in accordance with the law of the state in which the facility is located; provided that the cost of such relocation payable by the commission shall not in any event exceed the expenditure required to serve the public convenience and necessity.

14.16 Rights of Way. Permission is hereby granted to the commission to locate, construct and maintain any aqueducts, lines, pipes, conduits and auxiliary facilities authorized to be acquired, constructed, owned, operated or maintained by the commission in, over, under or across any streets and highways now or hereafter owned, opened or dedicated to or for public use, subject to such reasonable conditions as the highway department of the signatory party may require.

14.17 Penal Sanction. Any person, association or corporation who violates or attempts or conspires to violate any provision of this compact or any rule, regulation or order of the commission duly made, promulgated or issued pursuant to the compact in addition to any other remedy, penalty or consequence provided by law shall be punishable as may be provided by statute of any of the signatory parties within which the offense is committed; provided that in the absence of such provision any such person, association or corporation shall be liable to a penalty of not less than \$50 nor more



than \$1,000 for each such offense to be fixed by the court which the commission may recover in its own name in any court of competent jurisdiction, and in a summary proceeding where available under the practice and procedure of such court. For the purposes of this section in the event of a continuing offense each day of such violation, attempt or conspiracy shall constitute a separate offense.

**14.18 Tort Liability.** The commission shall be responsible for claims arising out of the negligent acts or omissions of its officers, agents and employees only to the extent and subject to the procedures prescribed by law generally with respect to officers, agents and employees of the government of the United States.

**14.19 Effect on Riparian Rights.** Nothing contained in this compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective signatory parties relating to riparian rights.

**14.20 Amendments and Supplements.** Amendments and supplements to this compact to implement the purposes thereof may be adopted by legislative action of any of the signatory parties concurred in by all of the others.

**14.21 Construction and Severability.** The provisions of this act and of agreements thereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such agreement is declared to be unconstitutional or the applicability thereof to any signatory party, agency or person is held invalid, the constitutionality of the remainder of this compact or such agreement and the applicability thereof to any other signatory party, agency, person or circumstance shall not be affected thereby. It is the legislative intent that the provisions of this compact be reasonably and liberally construed.

**14.22 Effective Date; Execution.** This compact shall become binding and effective thirty days after the enactment of concurring legislation by the federal government, the states of Delaware, New Jersey and New York, and the Commonwealth of Pennsylvania. The compact shall be signed and sealed in six duplicate original copies by the respective chief executives of the signatory parties. One such copy shall be filed with the Secretary of State of each of the signatory parties or in accordance with the laws of the state in which the filing is made, and one copy shall be filed and retained in the archives of the commission upon its organization. The signatures shall be affixed and attested under the following form:

In witness whereof, and in evidence of the adoption and enactment into law of this compact by the Congress and legislatures, respectively, of the signatory parties, the President of the United States and the respective Governors do hereby, in accordance with authority conferred by law, sign this compact in six duplicate original copies, as attested by the respective secretaries of state, and have caused the seals of the United States and of the respective states to be hereunto affixed this \_\_\_\_\_ day of \_\_\_\_\_, 19—.

#### PART II

#### Article 15

#### Effectuation

**15.1 Reservations.** (a) The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

(b) The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by the Delaware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee.

**15.2 Repealer.** All acts and parts of acts inconsistent with any provision of this act are to the extent of such inconsistency hereby repealed.

**15.3 Effectuation by the President.** The President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the compact and the initial organization and operation of the commission thereunder.

**15.4 Effective Date.** This act shall take effect immediately.

Mr. WALTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALTER of Pennsylvania: On page 69, line 14, strike all of the language beginning with line 14 on page 69 through line 7 on page 70, and substitute the following:

**"15.1 RESERVATIONS.**—In the exercise of the powers reserved to the Congress, pursuant to section 1.4 of the compact, the consent to and participation in the compact by the United States is subject to the following conditions and reservations:

"(a) That provision of section 3.7 of the compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the Basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the compact; or to impose any charges with respect to commercial navigation within the basin jurisdiction over which is reserved to the Federal Government: *Provided*, That this paragraph shall be applicable to the extent not inconsistent with section 1.4 of this compact.

"(b) That nothing contained in the compact shall be deemed to restrict the executive powers of the President in the event of a national emergency;

(c) That, notwithstanding the provisions of article 2, section 2.2 of the compact, the member of the commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President;

"(3) That nothing contained in the compact shall be construed as impairing or in any manner affecting the applicability to all Federal funds budgeted and appropriated for use by the Commission, of such authority over budgetary and appropriation matters as the President and Congress may have with respect to agencies in the executive branch of the Federal Government;

"(e) That nothing contained in the compact shall be construed as exempting from Federal taxation the interest on any bonds issued by the Commission except to the same extent that interest on State bonds is or may continue to be free or exempt from Federal taxation under applicable Federal law;

"(f) That the Congress reserves the power and right to revise or modify the terms, conditions and provisions under which the United States may remain a party to the compact;

"(g) That no provision of the compact shall be construed to relinquish the functions, powers or duties of the Congress of the United States over any matters committed to it by the Constitution of the United States;

"(h) That notwithstanding the provisions of section 2 of this Act, the Commission shall be subject to the provisions of the Act of June 30, 1936 (49 Stat. 2036, as amended; U.S.C., title 41, secs. 35 through 45), the Act of March 3, 1931 (46 Stat. 1494, as amended; U.S.C., title 40, secs. 276a and 276a-1); and to the provisions of the regulations of the Secretary of Labor issued pursuant to the Act of June 13, 1934 (48 Stat. 948, as amended; U.S.C., title 40, sec. 287c);

"(i) That the provisions of section 8.4 of article 8 of the Compact shall not be construed to apply to facilities operated pursuant to any other Federal law;

"(j) That, notwithstanding any other provision of this Act, nothing contained in the Compact shall be construed as superseding or limiting the functions, under any other law, of the Surgeon General of the United States Public Health Service, or of the Public Health Service, or of any other officer or agency of the United States, relating to water pollution, provided that the exercise of such functions shall not limit the authority of the commission to control, prevent, or abate water pollution;

"(k) That all Acts and parts of Acts inconsistent with any provision of this joint resolution are hereby amended for the purpose of this joint resolution to the extent necessary to carry out the provisions of this joint resolution; provided, however, that no act of the commission shall have the effect of repealing, modifying or amending any Federal law;

"(l) That for purposes of the Act of June 25, 1948, 62 Stat. 982, as amended (Title 28, U.S. Code, chapter 171, and sections 1346(b) and 240(b) and the Act of March 3, 1887, 24 Stat. 505, as amended (Title 28, U.S. Code, sections 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412, 2501), and the Act of June 11, 1946, 60 Stat. 237, as amended (Title 5, U.S. Code, sections 1001 through 1011, Title 50 App. U.S. Code, section 1900), the commission shall not be considered a Federal agency;

"(m) That the officers and employees of the commission (other than the United States member, alternate United States member, and advisors, and personnel employed by the United States member under direct Federal appropriation) shall not be deemed to be, for any purpose, officers or employees of the United States or to become entitled at any time by reason of employment by the commission to any compensation or benefit payable or made available by the United States solely and directly to its officers or employees;

"(n) That neither the compact nor this joint resolution shall be deemed to enlarge the authority of any Federal agency other than the commission to participate in or to provide funds for projects or activities in the Delaware River Basin.

"(o) That the United States district courts shall have original jurisdiction of all cases or controversies arising under the Compact, and this Act and any case or controversy so arising initiated in a State court shall be removable to the appropriate United States district court in the manner provided by § 1446, Title 28, U.S.C. Nothing contained in the Compact or elsewhere in this Act shall be construed as a waiver by the United States of its immunity from suit;

"(p) That the right to alter, amend, or repeal this joint resolution is hereby expressly reserved. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by the Delaware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee;

"(q) That the President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the Compact and the initial organization and operation of the commission thereunder;

"(r) That the provisions of sections 2.4 and 2.7 of Article 2 of the compact notwithstanding, the United States member, alternate United States member, and advisors there referred to may be paid compensation by the United States, such compensation to be fixed by the President at the rates which



he shall deem to prevail in respect to comparable officers in the executive branch;

"(s) That executive departments and other agencies of the executive branch of the Federal Government shall cooperate with and furnish appropriate assistance to the United States member. Such assistance shall include the furnishing of services and facilities and may include the detailing of personnel to the United States member. Appropriations are hereby authorized as necessary for the carrying out of the functions of the United States member, including appropriations for the employment of personnel by the United States member;

"(t) That the Commissioner appointed by the President may, at intervals of not less than six years, suspend any provision of the comprehensive plan which substantially affects the administration of any statute of the United States, and for the duration of such suspension the provision shall not be applied under section 3.8 or section 11.1 to the Compact to any other Federal department, agency or instrumentality. Such suspension may be made effective by notice given at a regular meeting of the Commission. Reinstatement of a suspended provision may be made effective at any time by like notice; and

"(u) That nothing contained in the Compact shall be construed as in any manner impairing or affecting the licensing and regulatory powers of any other officer, agency or instrument of the United States; provided that any exercise of such licensing or regulatory powers in the Delaware River Basin shall not substantially conflict with any portion of the comprehensive plan adopted pursuant to section 13.1 of the Compact, except as the comprehensive plan or any part thereof may be suspended pursuant to paragraph '(t)' of this section.

"15.2. EFFECTIVE DATE.—This Act shall take effect immediately."

Mr. POFF (during the reading of the amendment). Mr. Chairman, I ask unanimous consent that the further reading of the amendment be dispensed with.

The CHAIRMAN. Without objection, it is so ordered.

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. WALTER] is recognized in support of his amendment.

Mr. WALTER. Mr. Chairman, the general purpose of the amendment is to reaffirm what is, for the most part, already in the compact, and that is that the national interest of the United States is fully protected. The counsel was instructed, after we had agreed to the resolution to redraft this language. This is merely a restatement of the language in the several sections of the resolution.

A number of items in the amendments reiterate what is in section 1.4 of the compact and are completely consistent therewith. They are by way of clarifying the basin agency as an instrumentality of the Federal Government.

Subsection (a) simply provides that nothing in the compact shall be deemed to authorize the Delaware Commission to impose any charge or toll on navigation or certain water withdrawals.

Subsection (b) provides that nothing shall restrict the powers of the President during a national emergency.

Subsection (c) makes the Federal representative more accountable to the President by making his appointment term depend on the President's pleasure.

Subsection (d) provision is already in the bill, but spells it out expressly that the basin agency's budget must go through appropriate Federal departments.

Subsection (e): Assures that tax exemption on bonds would not be given basin agency bonds if the Federal law is no longer applied to municipal and other public agency bonds.

Subsection (f): Rephrases provisions contained in section 1.4 of the compact and assures that Congress is always free to withdraw or make changes if the national interest requires.

Subsection (g): Subsection is self-evident.

Subsection (h): Reassures that basin agency is subject to the labor and hour provisions of the Walsh-Healy Act; the recovery of payments under Davis-Bacon, and provisions of other Federal acts.

Subsection (i): Reassures that if Federal agencies, such as the National Park Service, have or lease concessions within the basin area; such concessions will be conducted under Federal standards rather than basin standards.

Subsection (j): Makes certain that when the Department of HEW must act to preserve health standards, there would be no doubt about its power to do so insofar as water pollution is concerned.

Subsection (k): Provides, what already is in the compact, that no act of the commission shall have the effect of repealing, modifying, or amending any Federal law.

Subsection (l) excludes the basin commission from certain Federal acts because it is more appropriate to treat it as a separate instrumentality and the Federal acts are not framed to deal with it adequately.

Subsection (m) eliminates the application of the Classification Act of 1949, so that the basin commission can have an employment merit system better fitted to its own needs as spelled out in the compact.

Subsection (n) says that nothing in the compact commits any other Federal agency to spend its own money.

Subsection (o) implements compact to make certain that U.S. district courts will be courts of competent jurisdiction under the compact.

Subsection (p) is the usual reservation which Congress places in compacts.

Subsection (q) is self-evident.

Subsection (r) is self-explanatory.

Subsection (s) is an appropriation authorization.

Subsection (t) provides that Federal representatives may, at intervals of not less than 6 years, suspend the comprehensive plan.

Subsection (u) provides that nothing in the compact can impair or affect the licensing and regulatory powers of Federal agencies.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALTER].

The amendment was agreed to.

Mr. CRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRAMER: On page 12, line 7, before the period insert "but the Federal Commissioner shall have no vote on the Commission, and neither the United States nor any department or agency thereof shall be bound or committed by participation of such representatives as members of the Commission."

Mr. CRAMER. Mr. Chairman, my remarks will be very brief. I previously discussed this same matter with regard to Federal participation and stated that there is no precedent, in my opinion, of comparable nature for a Federal voting representative membership on the operating Commission mandatorily appointed by the President which morally obligates the Federal Government to follow such policies as that voting member sets, being outvoted 4 to 1 by the States in such a compact.

I have here a memorandum summarizing the provisions of this compact bill. It most clearly points up the concern I have over the Federal Government's being obligated morally by having a voting participating member in the management of this compact, the hiring and firing of engineers, of employees, personnel, the making up of the internal budget, of the bookkeeping, that obligation becomes a responsibility of the Federal Government with the States, contrary to any previous precedent established. I think it is a dangerous one.

Here is what authority this commission is going to have with regard to policy matters:

The Commission shall have the power of establishing a capital budget and the sharing of capital costs among the signatory parties will be proportionate to the distribution of benefits from the proposed improvements. The Commission will prepare standard formulas for this.

Which hits again on the point I made just a few minutes ago, that the determination of what the proportionate part of the Federal Government in the cost of any of these projects is going to be, even though it may fly in the teeth and be contrary to Federal policy already established, is going to be set by whom? It is going to be set by the commission and not by the Federal Government, the latter being the previous policy approach.

I am in agreement with the general principles of State compacts, in meeting water resource problem and I would like to be able to support this compact, but I object to it in its present form. This makes a compact with State participation unique in the history of interstate compacts, and compels the Federal Government to act in matters of State concern and thus subject the compact to serious policy, and even some have raised constitutional questions.

As a matter of fact, the Department of the Interior which is supposed to be backing the amendments proposed that were just adopted, made this observation. This is from the working paper of the new administration with regard to this same legislation. They take precisely the same position as the previous administration, and I quote:

Basically, therefore, the compact should be revised in the following principal respects:



1. The compact should be between the States, not between the States and the United States.

That is a policy position statement by this administration, the Department of the Interior's position paper concerning this compact. My amendment puts into effect this position, taken first by the Eisenhower administration and now by the Kennedy administration.

My amendment would make this compact, I think, acceptable to all departments and would take the controversy out of it.

I mentioned that previously the departments had opposed a Federal voting membership. I have here a report on the bill I previously mentioned, involving the Northeast compact and the same problem in which the Bureau of the Budget opposed the Federal voting membership, the Federal Power Commission opposes it, the Department of the Army raises the same questions, the Department of Agriculture recommended that the Commission not be made up of a Federal voting member, the Department of Commerce, the Department of the Interior, which I just mentioned, the Department of Health, Education, and Welfare, all of them citing precisely the same problem.

This is fundamentally a policy question. I trust my amendment will be adopted, and that the policy question will be settled consistent with all previously existing precedents. If it is not, this is a vote in the other direction and opens the door to further such approaches. You are going to have the Northeast compact, the Northwest, the Southwest, and every compact previously approved, where they can get Federal money to participate in the compact, where they can get a moral commitment in advance of the project approval by Congress. These other compact authorities will be coming to the Congress wanting Federal participation if this compact passes in its present form.

Mr. WALTER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Florida [Mr. CRAMER].

Mr. Chairman, it seems to me it would be a futile gesture for the United States to have a member of this commission who could not vote. The vote is not as significant as the gentleman from Florida would have you believe, because, after all, the U.S. representative has the power to veto anything done by this commission. The advantage of giving him an opportunity to vote is to give him some standing in the meeting. In those instances where the United States has representation and the delegate has no authority to vote, frequently they do not even bother going to the meeting. This is give to the U.S. representative the dignity and the authority to express his views, with the understanding that the other members of the commission will pay attention to what the attitude of the U.S. representative is.

I am going to repeat something I said in general debate. The adoption of this compact in nowise binds the United States to any kind of project for the development of the Delaware Basin.

This merely gives our approval to the overall agreement for a study and a comprehensive plan.

I urge that the amendment be defeated.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. WALTER. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. I find it a little difficult to understand why the gentleman from Florida is so disturbed about the voting formula here where four votes, as I understand it, are exercised by the States and only one by the Federal Government when it is my understanding he objects to another compact which is to come before the House shortly in which the Federal Government has one more vote than the States will have. It is impossible to devise a compact where the voting formula meets with the approval of the gentleman from Florida.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. WALTER. I yield to the gentleman from Florida.

Mr. CRAMER. My objection is not to membership by the Federal Government on a commission in an advisory capacity, the commission to work as a team, but when the Federal Government does vote, the one member, the Federal Government is morally obligated to do what? To follow through and vote in the manner that Federal member votes. Likewise, the Federal Government's policy is not set by these items in those instances, the jurisdiction over public works projects, but instead is set by this one Federal representative, who is a know-all, see-all person, who can make all the decisions that are otherwise made by all of these other Federal agencies and morally bind the Federal Government to follow through on his decision. It is a policy question. I think it is wrong. That is the reason I raised it, whether it is seven or one.

Mr. WALTER. I find it difficult to follow the gentleman when he discusses the moral binding effect. I do not know what he means by that, because he knows full well that the representative of the United States cannot commit this Congress or the next Congress to the appropriation of one single nickel.

Mr. GROSS. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I would like to know if the Federal Government is to be a full participating partner in this set-up. I would like to have some assurance that in the future, if this is a full participating partnership, we are not going to be called upon to furnish millions of dollars of the taxpayers' money from all over the country for this compact. I wonder if today anybody can give us that assurance?

Mr. WALTER. I regret very much that the gentleman from Iowa was not here when I described the compact and what it does. But, I repeat, there is nothing in the compact that obligates the United States to appropriate a penny. What we do is put the approval on this overall comprehensive program

for the development of the Delaware Basin. Then, if the representatives of the States, the four governors and the representative of the President of the United States, agree that it is advisable to construct some kind of a dam, then it is necessary to submit that to the Bureau of the Budget and then to the necessary legislative committee and then to the Committee on Appropriations for approval. So, the United States, I will say to my dear friend, is not bound. I would be the last person in the world to agree to a blank check of the sort that the gentleman from Florida is trying to indicate that we are issuing. That is just not the fact.

Mr. GROSS. I am still skeptical about this compact as projected into the future.

Mr. CRAMER. Mr. Chairman, will the gentleman yield?

Mr. GROSS. I yield to the gentleman from Florida.

Mr. CRAMER. All I can do is to refer to the language of the compact itself. On page 51 under "Annual Current Expense and Capital Budgets" we find this language:

(b) The commission shall annually adopt a current expense budget for each fiscal year. Such budget shall include the commission's estimated expenses for administration, operation, maintenance and repairs, including a separate statement thereof for each project, together with its cost allocation. The total of such expenses shall be balanced by the commission's estimated revenues from all sources, including the cost allocations undertaken by any of the signatory parties in connection with any project. Following the adoption of the annual current expense budget by the commission, the executive director of the commission shall:

1) certify to the respective signatory parties the amounts due in accordance with existing cost sharing established for each project; and

2) transmit certified copies of such budget to the principal budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures. The amount required to balance the current expense budget in addition to the aggregate amount of item (1) above and all other revenues available to the commission shall be apportioned equitably among the signatory parties by unanimous vote of the commission, and the amount of such apportionment to each signatory party shall be certified together with the budget.

Now, the gentleman raises the question that the Federal Government has to vote on it and approve it. Yes, but the Federal Government is being appointed for the express purpose and with the duty and the obligation to help administer the commission, a part of which is to approve the budgets of this commission, and he is obviously going to support it. There is no question about that. And, further, the Federal Government is obligated to pay 20 percent for all operational expenses of this commission, which is a precedent which has never before been set by this Congress on an operating basis.

Then subparagraph (c) goes on with additional expenses which the Government will be obligated to pay its proportionate share of; and the proponents



say yes, but they can veto it. Who is going to believe that the Federal representative is going to veto an operational budget, which action would put the commission out of business? He is certainly not going to do that. The Federal Government will be obligated to 20 percent of the cost, the Federal Government will be obligated to a proportionate share of the cost of the projects themselves as well under the Capital expenses budget.

The CHAIRMAN. The time of the gentleman from Iowa [Mr. Gross] has expired.

(Mr. GROSS asked and was given permission to proceed for one-half minute additional.)

Mr. GROSS. Mr. Chairman, I just want to say, in view of what the gentleman from Florida [Mr. CRAMER] has read, I shall support this bill with his amendment in it, but I certainly shall oppose it without his amendment. I think it is a safeguard that we must have.

Mr. SCRANTON. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I just rise to ask the gentleman from Pennsylvania [Mr. WALTER] one question. If the amendment of the gentleman from Florida were accepted, does this mean that the legislatures of the four States would have to pass again on this compact?

Mr. WALTER. Yes, it does. The four States have already passed the compact. This is the way to administer the slow death.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. SCRANTON. I yield to the gentleman.

Mr. McCORMACK. In other words, the adoption of this amendment means the nullification of this compact.

Mr. WALTER. Of course.

Mr. CRAMER. Mr. Chairman, will the gentleman yield at that point?

Mr. SCRANTON. I yield to the gentleman.

Mr. CRAMER. Of course, if what the gentleman says is true with regard to my amendment, may I say that my amendment is not intended to destroy this bill at all. It is intended to have a good operational compact that is consistent with precedent. My amendment is intended to be a friendly one. I realize there is a difference of opinion on the policy question involved but if in fact you have to go back to the States, if my amendment were adopted, it is my opinion that the substantial nature of the 3 or 4 pages of amendments that have been offered by the gentleman from Pennsylvania [Mr. WALTER] and already adopted likewise would require you to go back to the States. And what is wrong with that?

Are you going to condone a situation where the States say to the Federal Government, "Here is the compact, these are what your duties are, here is what you are going to have to pay into it, here is what your responsibilities are; take it or leave it. If you do not like it, we are not going to go back and consider it again."

I think it is wrong to subscribe to the philosophy that the States can dictate to

the Federal Government, "Here is what your responsibilities are going to be," and ask the Federal Government to take it or leave it. "If you do not like them, we are just not going to do anything about it. You take it or leave it." As I say, we have the right to exercise our own individual responsibility.

Mr. EDMONDSON. Mr. Chairman, will the gentleman yield?

Mr. SCRANTON. I yield to the gentleman from Oklahoma.

Mr. EDMONDSON. Mr. Chairman, I would suggest that we read the language in subsection (c) on the same page from which the gentleman from Florida was reading, but he stopped short of reading all of it. After saying that the parties to this agreement agree to request the funds that are agreed to in the commission findings, they shall be subject to such review and approval as may be required by their respective budgetary processes.

Very obviously no Federal representative is going to have any authority to bind the Federal Government without being subject to the full review and approval that is required in his budgetary process. That same is going to apply to the States; they are going to have to go back and get review and approval that is normal and ordinary in a budgetary process.

Mr. WALTER. Mr. Chairman, will the gentleman yield at that point?

Mr. SCRANTON. I yield to the gentleman from Pennsylvania.

Mr. WALTER. I hope we all realize that we are talking about the operating budget of \$40,000.

Mr. CRAMER. Mr. Chairman, will the gentleman yield to me for an answer to that comment?

Mr. SCRANTON. I yield.

Mr. CRAMER. Referring to what the gentleman from Oklahoma [Mr. EDMONDSON] said, I did not intend to stop at that point to which he referred. I ran out of time. The gentleman did not say that the clause he is referring to refers only to the current operating budget. It does not refer to the capital expense budget. But regardless of that if in fact it is a 20 percent Federal cost, the Federal Government is going to have to carry it. There may be a little difference of opinion of a few thousand dollars concerning it, but the Federal Government, whatever the amount, is going to have to bear 20 percent of it. That is what is wrong with it. I think the amendment should be agreed to.

Mr. TOLL. May I call the attention of the gentleman from Florida to Section 12.20, on page 48:

Nothing in this section shall be deemed to impose any mandatory obligation on any of the signatory parties other than such obligations as may be assumed by a signatory party in connection with a specific project or facility.

So there you have the section which applies to capital funds, and then there is the other section which relates to maintenance and operation. On top of that you have section 1.4 on page 9, which permits modification for everything. The U.S. Government has no obligation here at all.

Mr. CRAMER. Can the gentleman cite an example where there is any precedent for the Federal Government paying any share of the operating expense in such a situation?

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

The question is on the amendment offered by the gentleman from Florida [Mr. CRAMER].

The question was taken, and the Chairman announced that the yeas appeared to have it.

Mr. CRAMER. Mr. Chairman, I demand tellers.

Tellers were ordered, and the Chairman appointed as tellers Mr. WALTER and Mr. CRAMER.

The Committee divided, and the tellers reported that there were—ayes 58, yeas 92.

So the amendment was rejected.

Mr. CRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRAMER of Florida: On page 51, line 23, and on page 52, line 8 and line 11, after the word "parties" insert "except the Federal Government."

Mr. CRAMER. Mr. Chairman, this relates to the very matter we previously discussed and my remarks will be short.

As appears on pages 51 and 52 of the bill, what this does is to insert on line 23, after the word "parties" on line 8, page 52, after the word "parties" and on line 11, page 52, after the word "parties" the words "except the Federal Government." The obvious objective of the amendment is to eliminate Federal cost sharing in the operation of the commission, and to permit the Federal Government to do in these public works projects the same as it does in all other public works projects. That is, for these agencies involved meaning the Corps of Army Engineers, the Department of the Interior and so forth, the Federal Power Commission, to determine what the Federal Government cost sharing should be in these individual projects on the basis of established formulas and policies set up by the Federal Government and by these agencies as they relate to these specific projects rather than permitting the commission itself to make these decisions and which may in many instances be contrary to present Federal policy.

Secondly, of course, it would require that the Delaware commission finance its own operational expenses and, I repeat, there is no precedent for the Federal Government participating costwise in the actual operational expenses of such a commission. The committee report and the majority report itself spells out the matters which we were discussing just a few minutes ago with regard to what the Federal cost sharing shall be. As to the Federal cost sharing in operational expenses alone and current expense item, that estimate is not contained anywhere in the committee report. It is not contained as a limitation in the bill.

As a matter of fact, the amendment which was passed, which was offered by the gentleman from Pennsylvania, pro-



vides for an open end authorization and an open end appropriation for the cost of operating this compact. As appears on page 11 of the committee report:

The compact agency will have a current expense budget and a capital budget. The current expense budget is to be apportioned among the signatory parties (of which the Federal Government is one) by unanimous vote of the agency's members; each signatory party, of course, reserving its usual budget review and approval of the amount so apportioned (sec. 13.3(b)). The capital budgets are to be negotiated by the agency representatives at such times as capital improvements are undertaken, and the sharing of capital costs among the signatory partners will be proportionate to the distribution of benefits from the proposed improvement. The commission will prepare standard formulas for this purpose (secs. mission may prepare standard formulas for this purpose (secs. 13.3(a), 12.20, 11.4), but nothing in these provisions imposes any mandatory obligations on any of the signatory parties (12.20).

The committee report itself clearly shows that the commission will be taking over the functions that are now and presently the responsibility of the interstate and regional government agencies involved in these multiple purpose and other public works projects, in water pollution and so forth. All of the agencies of Government have consistently opposed resolutions of this nature. That is why there is no precedent for the Federal Government being a participant and paying a share of the costs of operating such a compact as this because it is against the basic Federal-State relationship and contrary to established Federal-State relationships historically and contrary to all precedent.

Mr. Chairman, I ask that the amendment be adopted.

It will be my intention to offer a motion to recommit should this amendment not be approved, containing this amendment and the amendment I previously offered for the purpose of making a Federal member nonvoting and, secondly, to take out the Federal cost sharing in the operation of the commission.

Mr. FULTON. Mr. Chairman, I move to strike out the last word.

Mr. Chairman, I favor House Joint Resolution 225, to grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes.

I would like to join with the remarks of the distinguished gentlemen from Pennsylvania [Messrs. WALTER and SCHWEIKER], and my other distinguished colleagues from the Delaware River Basin. I think this bill will be good not only for the basin but for the general economy of the United States, and be a real step forward.

(Mr. FULTON asked and was given permission to revise and extend his remarks.)

Mr. WALTER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Pennsylvania is recognized.

Mr. WALTER. Mr. Chairman, the amendment under consideration is substantially related to the amendment just defeated.

I think it is important to bear in mind the fact that in order to bind anybody there must be a unanimous vote. It certainly seems to those of us who have been working on this compact, having in mind the protection of the United States, that we could not conceive of any stronger protection than that.

The United States is not obliged to go along because four of the members of the commission do not think they should on any particular project.

In addition to that if you will look at page 52, section 11(c) you will find that:

(c) The respective signatory parties covenant and agree to include the amounts so apportioned for the support of the current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. WALTER. I yield to the gentleman from Iowa.

Mr. GROSS. Running all through this it seems to me, is a moral obligation on the part of the Federal Government, and I do not like it.

Mr. WALTER. May I answer the gentleman from Iowa by asking him if he would recognize such an obligation? I know that I would not. I know that if a representative of the President of the United States sat down with four Governors and committed my Government to something that I did not think was proper I would not feel bound, and this Congress would not feel that it was bound by any action taken by the representative of the President of the United States.

Mr. GROSS. Mr. Chairman, will the gentleman yield further?

Mr. WALTER. Gladly.

Mr. GROSS. The gentleman speaks of what the executive branch of the Government or somebody else ought not to do. Only a few days ago the United Nations, using most of our money, made a loan to Cuba, to Castro. It is going there.

Mr. WALTER. I have not gotten over it since.

Mr. GROSS. Neither have I, but it does not seem to make any difference.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. CRAMER].

The question was taken; and on a division (demanded by Mr. CRAMER) there were ayes 38, noes 87.

So the amendment was rejected.

Mr. RAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RAY of New York:

Page 1, lines 6 and 7: strike the words "and the United States of America hereby enters into such compact,".

Page 3, lines 24 and 25: strike the words "with Federal participation".

Page 5, lines 16 and 17: strike the words "interstate-Federal" and insert the word "interstate".

Page 5, lines 21 and 22: strike the words "and the United States of America".

Page 5, line 23: strike the word "concurrent" and insert the word "appropriate".

Page 7, strike subparagraph (f), lines 12 through 14.

Page 7, line 24, strike the words "and the Federal Government".

Page 8, line 21: strike the word "Federal".

Page 9, lines 23 and 24: strike the words "to withdraw the Federal Government as a party to this compact or".

Page 10, lines 1 to 3: strike the words "under which it may remain a party by amendment, repeal, or modification of any Federal statute applicable thereto" and insert on line 1, after the word "provisions" the words "of this compact".

Page 11, strike lines 12 through 14.

Page 68, line 13: strike the words "the Federal Government".

Page 69, line 3: strike the words "Congress and".

Page 69, line 4: strike the words "the President of the United States and".

Page 69, line 8: strike the words "of the United States and".

Mr. RAY. Mr. Chairman, the issue has been adequately defined by those who have spoken. My amendment would take the Federal Government out as an operating partner. That is all it does.

Mr. Chairman, I ask for a favorable vote on my amendment.

Mr. POFF. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York [Mr. RAY].

Mr. Chairman, it grieves me to find myself in opposition to my distinguished colleague from New York.

I must confess, Mr. Chairman, that at one time I entertained rather serious reservations about the constitutionality of an interstate compact to which the Federal Government is a functional signatory party. While I still hold some misgivings about certain policy matters, I have satisfied myself that no constitutional violation is involved.

The constitutional challenge abides in the argument that the Federal Government cannot "bargain away" the powers delegated to it by the Constitution and the State governments cannot "bargain away" the powers reserved to them by the Constitution. If the words "bargain away" mean the same as "surrender title," then this argument is perfectly sound. Manifestly, the Federal Government cannot surrender any power or repudiate any responsibility vouchsafed to it under the instrument which brought the Federal Government into existence. By the same token, the State governments cannot surrender something which they reserved to themselves when they created the limited federation. But a contract—which is all a compact is—does not necessarily involve a surrender of powers or responsibilities on the part of any contracting party. Rather, a contract may involve mutual commitments to make affirmative exercises of acknowledged powers of each of the contracting parties. That is what is involved here. There is no "bargaining away," no surrender of powers, Federal or State, delegated or reserved; there is simply an agreement that the respective powers will be exercised jointly in the joint discharge of respective responsibilities.

It has been suggested that this compact is an assault on the Federal system and a trespass upon State rights. In the defense of States rights, I acknowledge no criticism of my record. In my



devotion to the doctrine of delegated, reserved, and separated powers, I make no apology. Yet, while I do not subscribe to everything stated in the majority report of the committee, I consider this compact neither an assault on the Federal system nor a trespass upon State rights. For their part, the States have requested Federal partnership and Federal participation. For its part, the Federal Government has retained the power to modify the compact and if deemed advisable by the Congress to withdraw from it altogether. It seems to me that such a contract does not deny but rather affirms the concept of dual sovereignty and preserves intact the Federal-State system of checks and balances.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. RAY].

The amendment was rejected.

Mr. McDOWELL. Mr. Chairman, I rise in support of House Joint Resolution 225, a companion measure to one which I introduced as House Joint Resolution 231, to grant the consent of Congress to the Delaware River Basin compact and to enter into such compact on behalf of the United States.

The purpose of this legislation is to grant the consent of Congress to an interstate-Federal compact providing for the creation of a regional governmental commission to administer in a comprehensive manner the water resources of the Delaware River Basin.

Parties to the compact are the Federal Government and the States of Delaware, Pennsylvania, New Jersey, and New York.

The compact commission itself will consist of five persons—a Federal representative appointed by the President of the United States and one member by each of the Governors of the four States.

This commission will be charged with the adoption and operation of a single overall plan for the immediate and long-range development and uses of the water resources of the Delaware River.

The rationale for a compact of this nature is clear after one examines the unwieldy apparatus that exists today. There are presently 19 Federal agencies that are involved with the problems of the Delaware Basin. Moreover, there are 57 State and interstate departments, boards, and commissions, as well as some 250 public and private water companies which are directly concerned with water problems stemming from the Delaware River Basin.

Repeated efforts have been made since the 1920's to coordinate the water functions of this multiplicity of agencies, Federal, State, local, and private industry.

A tristate compact was put forward at that time, and in 1934 the Corps of Engineers, after a survey of the Delaware River, recommended the establishment of an interstate agency. In 1953 an interstate commission known as Incodel came close to adoption, but failed because one of the four States involved did not join in the agreement.

In 1955, in still another attempt to reach an agreement, the Governors of Delaware, Pennsylvania, New Jersey, and New York, as well as the mayors of New York City and Philadelphia, established the Delaware River Basin Advisory Committee to review the water resources of the Delaware River Basin.

The present compact set forth in House Joint Resolution 225 is based on the extensive efforts of the Delaware River Basin Advisory Committee. An information bulletin published in May 1961 by the U.S. Army district engineer, Philadelphia, and the U.S. Army division engineer, North Atlantic, pages 5 and 6, lists the governments and their agencies which devoted considerable planning effort in preparing the instant legislation, to wit: Department of the Army, Corps of Engineers; Department of Agriculture; Department of Commerce; Department of Health, Education, and Welfare; Department of the Interior; Department of Labor; Federal Power Commission; Commonwealth of Pennsylvania; State of Delaware; State of New Jersey; State of New York; city of New York; city of Philadelphia.

In his February 23, 1961 message on our natural resources, President Kennedy declared that "our entire society rests upon—and is dependent upon—our water, our land, our forests, and our minerals. How we use these resources influences our health, security, economy, and well-being."

Water is a vital necessity for life. The archives of history prove that civilizations depended upon this basic compound for survival—and abundant evidence exists through the centuries of mankind which demonstrates the shortcomings that can occur to man when the water balance of nature is destroyed or unheeded.

Citizen interest in water resources planning is far more extensive than might be expected. There are many different groups concerned about water. Chambers of commerce feel a stake in industrial water supply. Sportsmen actively promote stream protection for the advantage of fish life. Conservationists and small watershed groups have a variety of interests, including an aesthetic one. Farmers want and need water for irrigation. Cities and their civic agencies are concerned with adequate municipal supplies. Those groups devoting their energies to promoting the general welfare, such as the League of Women Voters, are very responsive to many issues relating to water resources. This subject has been one of two major topics on the agenda of the League of Women Voters throughout the United States for the past several years and has been of very special interest to the chapters of the league in the Delaware River Basin. There are 163 leagues with 23,000 members in the Delaware River Service Area, which includes the States of Delaware, Pennsylvania, New Jersey, and New York, who joined to form the Inter-League Council of the Delaware River Basin. Reading widely on the economic, constitutional, social, and administrative aspects relative to

the creation and operation of a suitable legal and administrative organization for water and related resource development in the Delaware River Basin, the Inter-League Council, in September, 1959, published a trenchant and scholarly pamphlet entitled, "Man and the River." In addition, the League of Women Voters of the State of Delaware has devoted 5 years of intensive study of the overall water resources problem in the United States with special emphasis on the role of the State of Delaware and the interdependence of her sister States, New Jersey, Pennsylvania, and New York in resolving their water problems which stem from the Delaware River. In four special articles written and published in the Wilmington, Del. Evening Journal in May, 1961, Mesdames Norma Handloff, Catharina R. Groot, and Rose S. Mather of the Delaware League of Women Voters, demonstrated their scholarly work and the serious public deliberation and expression that are invaluable in providing a factual and logical foundation for sound and positive water conservation in the years ahead. On May 26, 1961, when Gov. Elbert N. Carvel signed into law a bill passed by the General Assembly of the State of Delaware granting the consent of the first State to the Delaware River Basin compact, four members of the Delaware League were present to witness this ceremony.

The new industries that mark out the line of our industrial growth—aviation, chemicals, alloys, electronics, atomic energy—are insatiable consumers of power. To meet their demands, and at the same time to meet the problems of the whole Delaware River Basin and its needs, is one of the new imperatives of the American place and life. America has the resources for its present and future needs, if it has the will to use them fully and the social imagination to use them equitably. What it is in danger of neglecting is that, whether in an industrial or agrarian society, in an age of massive power or of forest clearings, the web between man and his environment is broken only at his peril. There is a balance of nature and man, by which man is sustained by the environment but only on condition that he should not capriciously waste his great estate but nurture and keep it.

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. BASS of Tennessee, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the resolution (H.J. Res. 225) to grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes, pursuant to House Resolution 263, he reported the resolution back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.



The question is on the amendment.  
The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

Mr. CRAMER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the joint resolution?

Mr. CRAMER. I am, Mr. Speaker.

The SPEAKER. The clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CRAMER moves to recommit the resolution (H.J. Res. 225) to the Committee on the Judiciary with instructions to report the same back forthwith with the following amendment:

Page 12, line 7, before the period insert "but the Federal Commissioner shall have no vote on the Commission, and neither the United States nor any department or agency thereof shall be bound or committed by participation of such representatives as members of the Commission."

On page 51, line 23, and line 11 on page 52, lines 8 and 11 after the word "parties" insert "except the Federal Government."

The SPEAKER. The question is on the motion to recommit.

Mr. CRAMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 92, nays 257, answered "present" 1, not voting 87, as follows:

[Roll No. 108]

YEAS—92

Adair	Dole	Moorehead,
Andersen,	Dominick	Ohio
Minn.	Ellsworth	Mosher
Anderson, Ill.	Findley	Nelsen
Arends	Ford	Nygaard
Ashbrook	Goodell	O'Konski
Auchincloss	Griffin	Osmer
Avery	Gross	Pelly
Ayres	Gubser	Poff
Baldwin	Harrison, Wyo.	Qule
Bass, N.H.	Harsha	Ray
Beermann	Harvey, Mich.	Reece
Bell	Hiestand	Robison
Berry	Hoffman, Ill.	Rousselot
Betts	Johansen	Schadeberg
Bolton	Jonas	Schenck
Bromwell	Judd	Schwengel
Broomfield	Kearns	Seely-Brown
Brown	King, N.Y.	Short
Broyhill	Knox	Shriver
Byrnes, Wis.	Laird	Sibal
Cederberg	Langen	Siler
Chamberlain	Latta	Taber
Church	McCulloch	Teague, Calif.
Clancy	McDonough	Thomson, Wis.
Collier	McIntire	Tollefson
Cramer	McVey	Utt
Cunningham	MacGregor	Westland
Curtis, Mo.	Mathias	Wilson, Calif.
Derwinski	Meador	Younger
Devine	Michel	
Dingell	Minshall	

NAYS—257

Abbltt	Belcher	Cahill
Addabbo	Bennett, Fla.	Casey
Addonizio	Bennett, Mich.	Celler
Albert	Blatnik	Chelf
Alexander	Boggs	Chenoweth
Alford	Boland	Clark
Andrews	Bolling	Cohelan
Ashley	Bonner	Conte
Ashmore	Boykin	Cook
Aspinall	Brademas	Cooley
Bailey	Bray	Corbett
Barling	Breeding	Curtin
Barrett	Brewster	Daddario
Barry	Brooks, Tex.	Dague
Bass, Tenn.	Burke, Ky.	Davis, John W.
Bates	Burke, Mass.	Delaney
Becker	Burleson	Denton
Beckworth	Byrne, Pa.	Derounian

Donohue	Kastenmeier	Rivers, Alaska
Dorn	Kee	Rodino
Dowdy	Keith	Rogers, Colo.
Downing	Kilday	Rogers, Fla.
Doyle	Kilgore	Rogers, Tex.
Dulski	King, Utah	Roosevelt
Durno	Kitchin	Rostenkowski
Dwyer	Kornegay	Roush
Edmondson	Kowalski	Rutherford
Elliott	Kunkel	Ryan
Everett	Lane	St. George
Fallon	Lankford	St. Germain
Farbstein	Lennon	Santangelo
Fasell	Lesinski	Saund
Feighan	Lindsay	Saylor
Fenton	Loser	Schneebell
Finnegan	McCormack	Schweiker
Fisher	McDowell	Scott
Flood	McFall	Scranton
Forrester	McMillan	Selden
Fountain	Macdonald	Shelley
Frazier	Macdrowicz	Shipley
Frelinghuysen	Mack	Sikes
Friedel	Magnuson	Sisk
Fulton	Mahon	Slack
Garmatz	Matthews	Smith, Calif.
Gary	May	Smith, Iowa
Gathings	Morrow	Smith, Miss.
Gavin	Miller	Spence
Glamo	George P.	Stafford
Gilbert	Miller, N.Y.	Staggers
Goodling	Milliken	Steed
Granahan	Mills	Stephens
Grant	Moeller	Stratton
Gray	Moore	Stubblefield
Green, Pa.	Moorhead, Pa.	Sullivan
Griffiths	Morgan	Taylor
Hagan, Ga.	Morris	Teague, Tex.
Hagen, Calif.	Morse	Thomas
Haley	Moss	Thompson, La.
Halpern	Moulder	Thompson, N.J.
Hansen	Murphy	Thompson, Tex.
Harding	Murray	Thornberry
Hardy	Natcher	Toll
Harris	Nix	Trimble
Harvey, Ind.	Norblad	Tuck
Hays	O'Brien, Ill.	Tupper
Healey	O'Hara, Ill.	Udall, Morris K.
Hebert	O'Hara, Mich.	Ullman
Hechler	Olsen	Vanlk
Hemphill	O'Neill	Van Zandt
Henderson	Ostertag	Wallhauser
Holifield	Passman	Walter
Holland	Patman	Watts
Holtzman	Perkins	Weaver
Horan	Pfost	Wels
Huddleston	Philbin	Whalley
Hull	Pike	Whitener
Ichord, Mo.	Pirnie	Whitten
Ikard, Tex.	Poage	Wickersham
Jarman	Price	Widnall
Jennings	Pucinski	Willis
Joelson	Rabaut	Wilson, Ind.
Johnson, Calif.	Randall	Winstead
Johnson, Md.	Reuss	Wright
Johnson, Wis.	Rhodes, Ariz.	Yates
Karsten	Rhodes, Pa.	Young
Karthe	Riehlman	Zablocki

ANSWERED "PRESENT"—1

Gallagher

NOT VOTING—87

Abernethy	Garland	Martin, Nebr.
Alger	Glenn	Mason
Anfuso	Green, Oreg.	Miller, Clem
Baker	Hall	Monagan
Battin	Halleck	Montoya
Bltch	Harrison, Va.	Morrison
Bow	Herlong	Multer
Brooks, La.	Hoeven	Norrell
Bruce	Hoffman, Mich.	O'Brien, N.Y.
Buckley	Hosmer	Peterson
Cannon	Inouye	Pilcher
Carey	Jensen	Pillion
Chiperfield	Jones, Ala.	Powell
Coad	Jones, Mo.	Rains
Colmer	Kelly	Reifel
Corman	Keogh	Riley
Curtis, Mass.	Kilburn	Rivers, S.C.
Daniels	King, Calif.	Roberts
Davls,	Kirwan	Rooney
James C.	Kluczynski	Roudebush
Davis, Tenn.	Kyl	Scherer
Dawson	Landrum	Sheppard
Dent	Libonati	Smith, Va.
Diggs	Lipscomb	Springer
Dooley	McSween	Van Pelt
Evins	Madden	Vinson
Fino	Maillard	Wharton
Flynt	Marshall	Williams
Fogarty	Martin, Mass.	Zelenko

So the motion to recommit was rejected.

The Clerk announced the following pairs:

On this vote:

Mr. Hosmer for, with Mrs. Kelly against.  
Mr. Reifel for, with Mr. Glenn against.  
Mr. Martin of Nebraska for, with Mr. Daniels against.  
Mr. Bow for, with Mr. Dent against.  
Mr. Hoeven for, with Mr. Kirwan against.  
Mr. Garland for, with Mr. Libonati against.  
Mr. Battin for, with Mr. Corman against.  
Mr. Van Pelt for, with Mr. Monagan against.  
Mr. Alger for, with Mr. Dawson against.  
Mr. Halleck for, with Mr. King of California against.  
Mr. Hall for, with Mr. Fogarty against.  
Mr. Kyl for, with Mr. Inouye against.  
Mr. Chiperfield for, with Mr. Riley against.

Until further notice:

Mr. Buckley with Mr. Baker.  
Mr. Zelenko with Mr. Wharton.  
Mr. Keogh with Mr. Bruce.  
Mr. Anfuso with Mr. Pillion.  
Mr. Carey with Mr. Mason.  
Mr. Multer with Mr. Jensen.  
Mr. Rooney with Mr. Roudebush.  
Mr. O'Brien of New York with Mr. Curtis of Massachusetts.  
Mr. Powell with Mr. Fino.  
Mr. Williams with Mr. Mailliard.  
Mr. Madden with Mr. Lipscomb.  
Mr. Brooks of Louisiana with Mr. Kilburn.  
Mr. Morrison with Mr. Hoffman of Michigan.  
Mr. Evins with Mr. Springer.  
Mr. Herlong with Mr. Dooley.  
Mr. Peterson with Mr. Martin of Massachusetts.

Messrs. McDOWELL, BARRY, and CORBETT changed their vote from "yea" to "nay."

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the joint resolution.

The joint resolution was passed.

A motion to reconsider was laid on the table.

#### LEAVE TO EXTEND

Mr. WALTER. Mr. Speaker, I ask unanimous consent to insert in the RECORD immediately following the remarks I made on the bill just passed some questions and answers concerning the effects of the compact.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

#### U.S. DISARMAMENT AGENCY FOR WORLD PEACE AND SECURITY

(Mr. KASTENMEIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, I take this time to say that at least 48 Members of the House, headed by our distinguished colleague from Pennsylvania, the chairman of the House Committee on Foreign Affairs, are today introducing legislation to create a U.S. Disarmament Agency for World Peace and Security—which proposal this noon accompanied the President's message.

This bill is the bill that the President's Special Adviser on Disarmament, John







87<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. J. RES. 225

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IN THE SENATE OF THE UNITED STATES

JULY 5 (legislative day, JULY 3), 1961

Read twice and referred to the Committee on the Judiciary

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## JOINT RESOLUTION

To grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes.

1       *Resolved by the Senate and House of Representatives*  
2   *of the United States of America in Congress assembled,*  
3   That the consent of Congress is hereby given to the States  
4   of Delaware, New Jersey, and New York, and the Com-  
5   monwealth of Pennsylvania, for the compact known as the  
6   Delaware River Basin compact, and the United States of  
7   America hereby enters into such compact, in the form as  
8   follows:



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## PART I

2

## COMPACT

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Whereas the signatory parties recognize the water and related resources of the Delaware basin as regional assets vested with local, state and national interests, for which they have a joint responsibility; and

Whereas the conservation, utilization, development, management and control of the water and related resources of the Delaware River Basin under a comprehensive multipurpose plan will bring the greatest benefits and produce the most efficient service in the public welfare; and

Whereas such a comprehensive plan administered by a basin-wide agency will provide effective flood damage reduction; conservation and development of ground and surface water supply for municipal, industrial and agricultural uses; development of recreational facilities in relation to reservoirs, lakes and streams; propagation of fish and game; promotion of related forestry, soil conservation and watershed projects; protection and aid to fisheries dependent upon water resources; development of hydroelectric power potentialities; improved navigation; control of the movement of salt water; abatement and control of stream pollution; and regulation of stream flows toward the attainment of these goals; and

Whereas decisions of the United States Supreme Court re-

1       lating to the waters of the basin have confirmed the  
2       interstate regional character of the water resources of the  
3       Delaware River Basin, and the United States Corps of  
4       Engineers has in a prior report on the Delaware River  
5       Basin (House Document 179, 73d Cong., 2nd Sess.)  
6       officially recognized the need for an interstate agency  
7       and the economies that can result from unified develop-  
8       ment and control of the water resources of the basin;  
9       and

10   Whereas the water resources of the basin are presently sub-  
11       ject to the duplicating, overlapping and uncoordinated  
12       administration of some 43 state agencies, 14 interstate  
13       agencies and 19 federal agencies which exercise a multi-  
14       plicity of powers and duties resulting in a splintering of  
15       authority and responsibilities; and

16   Whereas the joint advisory body known as the Interstate  
17       Commission on the Delaware River Basin (INCodel),  
18       created by the respective commissions or committee on  
19       Interstate Cooperation of the States of Delaware, New  
20       Jersey, New York and Pennsylvania, has on the basis  
21       of its extensive investigations, surveys and studies con-  
22       cluded that regional development of the Delaware River  
23       Basin is feasible, advisable and urgently needed; and has  
24       recommended that an interstate compact with federal  
25       participation be consummated to this end; and

1 Whereas the Congress of the United States and the executive  
2 branch of the government have recognized the national  
3 interest in the Delaware River Basin by authorizing  
4 and directing the Corps of Engineers, U.S. Department  
5 of the Army, to make a comprehensive survey and re-  
6 port on the water and related resources of the Delaware  
7 River Basin, enlisting the technical aid and planning  
8 participation of many federal, state and municipal agen-  
9 cies dealing with the waters of the basin, and in particu-  
10 lar the federal departments of Agriculture, Commerce,  
11 Health, Education and Welfare, Interior, and Federal  
12 Power Commission; and

13 Whereas some 22,000,000 people of the United States at  
14 present live and work in the region of the Delaware  
15 River Basin and its environs, and the government, em-  
16 ployment, industry and economic development of the  
17 entire region and the health, safety and general welfare  
18 of its population are and will continue to be vitally  
19 affected by the use, conservation, and management and  
20 control of the water and related resources of the Dela-  
21 ware River Basin; and

22 Whereas demands upon the waters and related resources of  
23 the basin are expected to mount rapidly because of the



1 anticipated increase in the population of the region pro-  
2 jected to reach 30,000,000 by 1980 and 40,000,000 by  
3 2010, and because of the anticipated increase in indus-  
4 trial growth projected to double by 1980; and

5 Whereas water resources planning and development is tech-  
6 nical, complex and expensive, and has often required  
7 fifteen to twenty years from the conception to the com-  
8 pletion of a large dam and reservoir; and

9 Whereas the public interest requires that facilities must be  
10 ready and operative when needed, to avoid the catas-  
11 trophe of unexpected floods or prolonged drought, and  
12 for other purposes; and

13 Whereas the Delaware River Basin Advisory Committee, a  
14 temporary body constituted by the governors of the  
15 four basin states and the mayors of the cities of New  
16 York and Philadelphia, has prepared a draft of an inter-  
17 state-federal compact for the creation of a basin agency,  
18 and the signatory parties desire to effectuate the pur-  
19 poses thereof; Now therefore

20 The states of Delaware, New Jersey and New York and  
21 the Commonwealth of Pennsylvania, and the United States  
22 of America hereby solemnly covenant and agree with each  
23 other, upon the enactment of concurrent legislation by the

1 Congress of the United States and by the respective state  
2 legislatures, having the same effect as this Part, as follows:

3 ARTICLE 1

4 SHORT TITLE, DEFINITIONS, PURPOSE AND LIMITATIONS

5 Section 1.1 Short Title. This act shall be known and  
6 may be cited as the Delaware River Basin Compact.

7 1.2 Definitions. For the purposes of this compact,  
8 and of any supplemental or concurring legislation enacted  
9 pursuant thereto, except as may be otherwise required by  
10 the context:

11 (a) "Basin" shall mean the area of drainage into the  
12 Delaware River and its tributaries, including Delaware Bay;

13 (b) "Commission" shall mean the Delaware River  
14 Basin Commission created and constituted by this compact;

15 (c) "Compact" shall mean Part I of this act;

16 (d) "Cost" shall mean direct and indirect expenditures,  
17 commitment, and net induced adverse effects, whether or  
18 not compensated for, used or incurred in connection with  
19 the establishment, acquisition, construction, maintenance and  
20 operation of a project;

21 (e) "Facility" shall mean any real or personal prop-  
22 erty, within or without the basin, and improvements thereof  
23 or thereon, and any and all rights of way, water, water  
24 rights, plants, structures, machinery and equipment, ac-  
25 quired, constructed, operated or maintained for the bene-

1 ficial use of water resources or related land uses including,  
2 without limiting the generality of the foregoing, any and all  
3 things and appurtenances necessary, useful or convenient for  
4 the control, collection, storage, withdrawal, diversion, re-  
5 lease, treatment, transmission, sale or exchange of water;  
6 or for navigation thereon, or the development and use of  
7 hydroelectric energy and power, and public recreational  
8 facilities; or the propagation of fish and wildlife; or to con-  
9 serve and protect the water resources of the basin or any  
10 existing or future water supply source, or to facilitate any  
11 other uses of any of them;

12 (f) "Federal government" shall mean the government  
13 of the United States of America, and any appropriate branch,  
14 department, bureau or division thereof, as the case may be;

15 (g) "Project" shall mean any work, service or activity  
16 which is separately planned, financed, or identified by the  
17 commission, or any separate facility undertaken or to be  
18 undertaken within a specified area, for the conservation, util-  
19 ization, control, development or management of water re-  
20 sources which can be established and utilized independently  
21 or as an addition to an existing facility, and can be con-  
22 sidered as a separate entity for purposes of evaluation;

23 (h) "Signatory party" shall mean a state or common-  
24 wealth party to this compact, and the federal government;

25 (i) "Water resources" shall include water and related



1 natural resources in, on, under, or above the ground, includ-  
2 ing related uses of land, which are subject to beneficial use,  
3 ownership or control.

4 1.3 Purpose and Findings. The legislative bodies of  
5 the respective signatory parties hereby find and declare:

6 (a) The water resources of the basin are affected with a  
7 local, state, regional and national interest and their planning,  
8 conservation, utilization, development, management and con-  
9 trol, under appropriate arrangements for intergovernmental  
10 cooperation, are public purposes of the respective signatory  
11 parties.

12 (b) The water resources of the basin are subject to the  
13 sovereign right and responsibility of the signatory parties,  
14 and it is the purpose of this compact to provide for a joint  
15 exercise of such powers of sovereignty in the common in-  
16 terests of the people of the region.

17 (c) The water resources of the basin are functionally  
18 inter-related, and the uses of these resources are interdepend-  
19 ent. A single administrative agency is therefore essential  
20 for effective and economical direction, supervision and coor-  
21 dination of efforts and programs of federal, state and local  
22 governments and of private enterprise.

23 (d) The water resources of the Delaware River Basin,  
24 if properly planned and utilized, are ample to meet all  
25 presently projected demands, including existing and added

1 diversions in future years and ever increasing economies  
2 and efficiencies in the use and reuse of water resources can  
3 be brought about by comprehensive planning, programming  
4 and management.

5 (e) In general, the purposes of this compact are to  
6 promote interstate comity; to remove causes of present and  
7 future controversy; to make secure and protect present de-  
8 velopments within the states; to encourage and provide for  
9 the planning, conservation, utilization, development, manage-  
10 ment and control of the water resources of the basin; to  
11 provide for cooperative planning and action by the signatory  
12 parties with respect to such water resources; and to apply  
13 the principle of equal and uniform treatment to all water  
14 users who are similarly situated and to all users of related  
15 facilities, without regard to established political boundaries.

16 1.4 Powers of Congress; Withdrawal. Nothing in  
17 this compact shall be construed to relinquish the functions,  
18 powers or duties of the Congress of the United States with  
19 respect to the control of any navigable waters within the  
20 basin, nor shall any provision hereof be construed in deroga-  
21 tion of any of the constitutional powers of the Congress to  
22 regulate commerce among the states and with foreign na-  
23 tions. The power and right of the Congress to withdraw  
24 the federal government as a party to this compact or to

1 revise or modify the terms, conditions and provisions under  
2 which it may remain a party by amendment, repeal or  
3 modification of any federal statute applicable thereto is  
4 recognized by the signatory parties.

5       1.5 Existing Agencies; Construction. It is the purpose  
6 of the signatory parties to preserve and utilize the functions,  
7 powers and duties of existing offices and agencies of gov-  
8 ernment to the extent not inconsistent with the compact,  
9 and the commission is authorized and directed to utilize  
10 and employ such offices and agencies for the purpose of this  
11 compact to the fullest extent it finds feasible and advan-  
12 tageous.

13       1.6 Duration of Compact.

14       (a) The duration of this compact shall be for an initial  
15 period of 100 years from its effective date, and it shall be  
16 continued for additional periods of 100 years if not later  
17 than 20 years nor sooner than 25 years prior to the termina-  
18 tion of the initial period or any succeeding period none of  
19 the signatory states, by authority of an act of its legislature,  
20 notifies the commission of intention to terminate the com-  
21 pact at the end of the then current 100 year period.

22       (b) In the event that this compact should be terminated  
23 by operation of paragraph (a) above, the commission shall  
24 be dissolved, its assets and liabilities transferred, and its cor-



1 porate affairs wound up, in such manner as may be provided  
2 by act of the Congress.

## 3 ARTICLE 2

### 4 ORGANIZATION AND AREA

5 Section 2.1 Commission Created. The Delaware River  
6 Basin Commission is hereby created as a body politic  
7 and corporate, with succession for the duration of this com-  
8 pact, as an agency and instrumentality of the governments of  
9 the respective signatory parties.

10 2.2 Commission Membership. The commission shall  
11 consist of the Governors of the signatory states, ex officio,  
12 and one commissioner to be appointed by the President of the  
13 United States to serve during the term of office of the  
14 President.

15 2.3 Alternates. Each member of the commission  
16 shall appoint an alternate to act in his place and stead, with  
17 authority to attend all meetings of the commission, and with  
18 power to vote in the absence of the member. Unless other-  
19 wise provided by law of the signatory party for which he is  
20 appointed, each alternate shall serve during the term of the  
21 member appointing him, subject to removal at the pleasure  
22 of the member. In the event of a vacancy in the office of  
23 alternate, it shall be filled in the same manner as an original  
24 appointment for the unexpired term only.

1        2.4 Compensation. Members of the commission and  
2 alternates shall serve without compensation but may be re-  
3 imbursed for necessary expenses incurred in and incident to  
4 the performance of their duties.

5        2.5 Voting Power. Each member shall be entitled to  
6 one vote on all matters which may come before the commis-  
7 sion. No action of the commission shall be taken at any  
8 meeting unless a majority of the membership shall vote in  
9 favor thereof.

10       2.6 Organization and Procedure. The commission  
11 shall provide for its own organization and procedure, and  
12 shall adopt rules and regulations governing its meetings and  
13 transactions. It shall organize annually by the election of a  
14 chairman and vice-chairman from among its members. It  
15 shall provide by its rules for the appointment by each mem-  
16 ber in his discretion of an advisor to serve without compensa-  
17 tion, who may attend all meetings of the commission and its  
18 committees.

19       2.7 Jurisdiction of the Commission. The commission  
20 shall have, exercise and discharge its functions, powers and  
21 duties within the limits of the basin, except that it may in its  
22 discretion act outside the basin whenever such action may be  
23 necessary or convenient to effectuate its powers or duties  
24 within the basin, or to sell or dispose of water, hydroelectric  
25 power or other water resources within or without the basin.

1 The commission shall exercise such power outside the basin  
2 only upon the consent of the state in which it proposes to  
3 act.

### 4 ARTICLE 3

#### 5 POWERS AND DUTIES OF THE COMMISSION

6 Section 3.1 Purpose and Policy. The commission shall  
7 develop and effectuate plans, policies and projects relating to  
8 the water resources of the basin. It shall adopt and promote  
9 uniform and coordinated policies for water conservation, con-  
10 trol, use and management in the basin. It shall encourage  
11 the planning, development and financing of water resources  
12 projects according to such plans and policies.

13 3.2 Comprehensive Plan, Program and Budgets. The  
14 commission shall, in accordance with Article 13 of this com-  
15 pact, formulate and adopt:

16 (a) A comprehensive plan, after consultation with water  
17 users and interested public bodies, for the immediate and  
18 long range development and uses of the water resources of  
19 the basin;

20 (b) A water resources program, based upon the com-  
21 prehensive plan, which shall include a systematic presenta-  
22 tion of the quantity and quality of water resources needs of  
23 the area to be served for such reasonably foreseeable period  
24 as the commission may determine, balanced by existing and  
25 proposed projects required to satisfy such needs, including



1 all public and private projects affecting the basin, together  
2 with a separate statement of the projects proposed to be  
3 undertaken by the commission during such period; and

4 (c) An annual current expense budget, and an annual  
5 capital budget consistent with the water resources program  
6 covering the commission's projects and facilities for the bud-  
7 get period.

8 3.3 Allocations, Diversions and Releases. The com-  
9 mission shall have the power from time to time as need  
10 appears, in accordance with the doctrine of equitable appor-  
11 tionment, to allocate the waters of the basin to and among  
12 the states signatory to this compact and to and among their  
13 respective political subdivisions, and to impose conditions,  
14 obligations and release requirements related thereto, subject  
15 to the following limitations:

16 (a) The commission, without the unanimous consent  
17 of the parties to the United States Supreme Court decree in  
18 New Jersey v. New York, 347 U.S. 995 (1954), shall not  
19 impair, diminish or otherwise adversely affect the diversions,  
20 compensating releases, rights, conditions, obligations, and  
21 provisions for the administration thereof as provided in said  
22 decree; provided, however, that after consultation with the  
23 river master under said decree the commission may find and  
24 declare a state of emergency resulting from a drought or  
25 catastrophe and it may thereupon by unanimous consent of

1 its members authorize and direct an increase or decrease in  
2 any allocation or diversion permitted or releases required by  
3 the decree, in such manner and for such limited time as may  
4 be necessary to meet such an emergency condition.

5 (b) No allocation of waters hereafter made pursuant to  
6 this section shall constitute a prior appropriation of the waters  
7 of the basin or confer any superiority of right in respect to the  
8 use of those waters, nor shall any such action be deemed to  
9 constitute an apportionment of the waters of the basin among  
10 the parties hereto; provided that this paragraph shall not be  
11 deemed to limit or restrict the power of the commission to  
12 enter into covenants with respect to water supply, with a dura-  
13 tion not exceeding the life of this compact, as it may deem  
14 necessary for the benefit or development of the water resources  
15 of the basin.

16 (c) Any proper party deeming itself aggrieved by action  
17 of the commission with respect to an out-of-basin diversion or  
18 compensating releases in connection therewith, notwithstand-  
19 ing the powers delegated to the commission by this compact  
20 may invoke the original jurisdiction of the United States Su-  
21 preme Court within one year after such action for an adjudica-  
22 tion and determination thereof de novo. Any other action of  
23 the commission pursuant to this section shall be subject to ju-  
24 dicial review in any court of competent jurisdiction.

25 3.4 Supreme Court Decree; Waivers. Each of the sig-

1 natory states and their respective political subdivisions, in con-  
2 sideration of like action by the others, and in recognition of  
3 reciprocal benefits, hereby waives and relinquishes any right,  
4 privilege or power it may have to apply for any modification  
5 of the terms of the decree of the United States Supreme  
6 Court in New Jersey v. New York, 347 U.S. 995 (1954)  
7 which would increase or decrease the diversions authorized  
8 or increase or decrease the releases required thereunder, ex-  
9 cept that a proceeding to modify such decree to increase  
10 diversions or compensating releases in connection with such  
11 increased diversions may be prosecuted by a proper party  
12 to effectuate rights, powers, duties and obligations under  
13 Section 3.3 of this compact, and except as may be required  
14 to effectuate the provisions of paragraphs III B 3 and V B  
15 of said decree.

16 3.5 Supreme Court Decree; Specific Limitations on  
17 Commission. Except as specifically provided in Sections  
18 3.3 and 3.4 of this article, nothing in this compact shall be  
19 construed in any way to impair, diminish or otherwise ad-  
20 versely affect the rights, powers, privileges, conditions and  
21 obligations contained in the decree of the United States  
22 Supreme Court in New Jersey v. New York, 347 U.S.  
23 995 (1954). To this end, and without limitation thereto,  
24 the commission shall not:

25 (a) Acquire, construct or operate any project or fa-



1 cility or make any order or take any action which would  
 2 impede or interfere with the rights, powers, privileges, con-  
 3 ditions or obligations contained in said decree;

4 (b) Impose or collect any fee, charge or assessment  
 5 with respect to diversions of waters of the basin permitted  
 6 by said decree;

7 (c) Exercise any jurisdiction, except upon consent of  
 8 all the parties to said decree, over the planning, design,  
 9 construction, operation or control of any projects, struc-  
 10 tures or facilities constructed or used in connection with  
 11 withdrawals, diversions and releases of waters of the basin  
 12 authorized by said decree or of the withdrawal, diversions  
 13 or releases to be made thereunder; or

14 (d) Serve as river master under said decree, except  
 15 upon consent of all the parties thereto.

16 3.6 General Powers. The commission may:

17 (a) Plan, design, acquire, construct, reconstruct, com-  
 18 plete, own, improve, extend, develop, operate and maintain  
 19 any and all projects, facilities, properties, activities and serv-  
 20 ices, determined by the commission to be necessary, con-  
 21 venient or useful for the purposes of this compact;

22 (b) Establish standards of planning, design and opera-  
 23 tion of all projects and facilities in the basin which affect  
 24 its water resources, including without limitation thereto

1 water and waste treatment plants, stream and lake recrea-  
2 tional facilities, trunk mains for water distribution, local flood  
3 protection works, small watershed management programs,  
4 and ground water recharging operations;

5 (c) Conduct and sponsor research on water resources,  
6 their planning, use, conservation, management, development,  
7 control and protection, and the capacity, adaptability and  
8 best utility of each facility thereof, and collect, compile, cor-  
9 relate, analyze, report and interpret data on water resources  
10 and uses in the basin, including without limitation thereto  
11 the relation of water to other resources, industrial water  
12 technology, ground water movement, relation between water  
13 price and water demand, and general hydrological condi-  
14 tions;

15 (d) Compile and coordinate systematic stream stage  
16 and ground water level forecasting data, and publicize such  
17 information when and as needed for water uses, flood warn-  
18 ing, quality maintenance or other purposes;

19 (e) Conduct such special ground water investigations,  
20 tests, and operations and compile such data relating thereto  
21 as may be required to formulate and administer the compre-  
22 hensive plan;

23 (f) Prepare, publish and disseminate information and  
24 reports with respect to the water problems of the basin and  
25 for the presentation of the needs, resources and policies of

1 the basin to executive and legislative branches of the signa-  
2 tory parties;

3 (g) Negotiate for such loans, grants, services or other  
4 aids as may be lawfully available from public or private  
5 sources to finance or assist in effectuating any of the purposes  
6 of this compact; and to receive and accept such aid upon  
7 such terms and conditions, and subject to such provisions  
8 for repayment as may be required by federal or state law or  
9 as the commission may deem necessary or desirable;

10 (h) Exercise such other and different powers as may be  
11 delegated to it by this compact or otherwise pursuant to law,  
12 and have and exercise all powers necessary or convenient to  
13 carry out its express powers or which may be reasonably  
14 implied therefrom.

15 3.7 Rates and Charges. The commission may from  
16 time to time after public notice and hearing fix, alter and  
17 revise rates, rentals, charges and tolls and classifications  
18 thereof, for the use of facilities which it may own or operate  
19 and for products and services rendered thereby, without  
20 regulation or control by any department, office or agency  
21 of any signatory party.

22 3.8 Referral and Review. No project having a sub-  
23 stantial effect on the water resources of the basin shall here-  
24 after be undertaken by any person, corporation or govern-  
25 mental authority unless it shall have been first submitted to



1 and approved by the commission, subject to the provisions  
2 of Sections 3.3 and 3.5. The commission shall approve a  
3 project whenever it finds and determines that such project  
4 would not substantially impair or conflict with the compre-  
5 hensive plan and may modify and approve as modified, or  
6 may disapprove any such project whenever it finds and  
7 determines that the project would substantially impair or  
8 conflict with such plan. The commission shall provide by  
9 regulation for the procedure of submission, review and con-  
10 sideration of projects, and for its determinations pursuant  
11 to this section. Any determination of the commission here-  
12 under shall be subject to judicial review in any court of  
13 competent jurisdiction.

14       3.9 Coordination and Cooperation. The commission  
15 shall promote and aid the coordination of the activities and  
16 programs of federal, state, municipal and private agencies  
17 concerned with water resources administration in the basin.  
18 To this end, but without limitation thereto, the commission  
19 may:

20       (a) Advise, consult, contract, financially assist, or other-  
21 wise cooperate with any and all such agencies;

22       (b) Employ any other agency or instrumentality of any  
23 of the signatory parties or of any political subdivision thereof,  
24 in the design, construction, operation and maintenance of

1 structures, and the installation and management of river con-  
2 trol systems, or for any other purpose;

3 (c) Develop and adopt plans and specifications for par-  
4 ticular water resources projects and facilities which so far as  
5 consistent with the comprehensive plan incorporate any sep-  
6 arate plans of other public and private organizations operat-  
7 ing in the basin, and permit the decentralized administration  
8 thereof;

9 (d) Qualify as a sponsoring agency under any federal  
10 legislation heretofore or hereafter enacted to provide finan-  
11 cial or other assistance for the planning, conservation, utili-  
12 zation, development, management or control of water  
13 resources.

14 3.10 Advisory Committees. The commission may con-  
15 stitute and empower advisory committees, which may be  
16 comprised of representatives of the public and of federal,  
17 state, county and municipal governments, water resources  
18 agencies, water-using industries, water-interest groups, labor  
19 and agriculture.

## 20 ARTICLE 4

### 21 WATER SUPPLY

22 Section 4.1 Generally. The commission shall have  
23 power to develop, implement and effectuate plans and proj-  
24 ects for the use of the waters of the basin for domestic.

1 municipal, agricultural and industrial water supply. To this  
2 end, without limitation thereto, it may provide for, construct,  
3 acquire, operate and maintain dams, reservoirs and other  
4 facilities for utilization of surface and ground water resources,  
5 and all related structures, appurtenances and equipment on  
6 the river and its tributaries and at such off-river sites as it  
7 may find appropriate, and may regulate and control the use  
8 thereof.

9       4.2 Storage and Release of Waters.

10       (a) The commission shall have power to acquire, oper-  
11 ate and control projects and facilities for the storage and  
12 release of waters, for the regulation of flows and supplies of  
13 surface and ground waters of the basin, for the protection  
14 of public health, stream quality control, economic develop-  
15 ment, improvement of fisheries, recreation, dilution and  
16 abatement of pollution, the prevention of undue salinity and  
17 other purposes.

18       (b) No signatory party shall permit any augmentation  
19 of flow to be diminished by the diversion of any water of  
20 the basin during any period in which waters are being re-  
21 leased from storage under the direction of the commission  
22 for the purpose of augmenting such flow, except in cases



1 where such diversion is duly authorized by this compact,  
2 or by the commission pursuant thereto, or by the judgment,  
3 order or decree of a court of competent jurisdiction.

4       4.3 Assessable Improvements. The commission may  
5 undertake to provide stream regulation in the main stream  
6 or any tributary in the basin and may assess on an annual  
7 basis or otherwise the cost thereof upon water users or any  
8 classification of them specially benefited thereby to a meas-  
9 urable extent, provided that no such assessment shall exceed  
10 the actual benefit to any water user. Any such assessment  
11 shall follow the procedure prescribed by law for local im-  
12 provement assessments and shall be subject to judicial review  
13 in any court of competent jurisdiction.

14       4.4 Coordination. Prior to entering upon the execu-  
15 tion of any project authorized by this article, the commission  
16 shall review and consider all existing rights, plans and pro-  
17 grams of the signatory parties, their political subdivisions,  
18 private parties, and water users which are pertinent to such  
19 project, and shall hold a public hearing on each proposed  
20 project.

21       4.5 Additional Powers. In connection with any proj-  
22 ect authorized by this article, the commission shall have

1 power to provide storage, treatment, pumping and transmis-  
2 sion facilities, but nothing herein shall be construed to au-  
3 thorize the commission to engage in the business of distribut-  
4 ing water.

## 5 ARTICLE 5

### 6 POLLUTION CONTROL

7 Section 5.1 General Powers. The commission may  
8 undertake investigations and surveys, and acquire, construct,  
9 operate and maintain projects and facilities to control poten-  
10 tial pollution and abate or dilute existing pollution of the  
11 water resources of the basin. It may invoke as complainant  
12 the power and jurisdiction of water pollution abatement agen-  
13 cies of the signatory parties.

14 5.2 Policy and Standards. The commission may as-  
15 sume jurisdiction to control future pollution and abate ex-  
16 isting pollution in the waters of the basin, whenever it de-  
17 termines after investigation and public hearing upon due  
18 notice that the effectuation of the comprehensive plan so  
19 requires. The standard of such control shall be that pollu-  
20 tion by sewage or industrial or other waste originating within  
21 a signatory state shall not injuriously affect waters of the  
22 basin as contemplated by the comprehensive plan. The  
23 commission, after such public hearing may classify the waters  
24 of the basin and establish standards of treatment of sewage,  
25 industrial or other waste, according to such classes including

1 allowance for the variable factors of surface and ground  
2 waters, such as size of the stream, flow, movement, location,  
3 character, self-purification, and usage of the waters affected.  
4 After such investigation, notice and hearing the commission  
5 may adopt and from time to time amend and repeal rules,  
6 regulations and standards to control such future pollution  
7 and abate existing pollution, and to require such treatment  
8 of sewage, industrial or other waste within a time reason-  
9 able for the construction of the necessary works, as may be  
10 required to protect the public health or to preserve the  
11 waters of the basin for uses in accordance with the compre-  
12 hensive plan.

13       5.3 Cooperative Legislation and Administration. Each  
14 of the signatory parties covenants and agrees to prohibit  
15 and control pollution of the waters of the basin according  
16 to the requirements of this compact and to cooperate faith-  
17 fully in the control of future pollution in and abatement of  
18 existing pollution from the rivers, streams, and waters in the  
19 basin which flow through, under, into or border upon any of  
20 such signatory states, and in order to effect such object,  
21 agrees to enact any necessary legislation to enable each such  
22 party to place and maintain the waters of said basin in a  
23 satisfactory condition, available for safe and satisfactory use  
24 as public and industrial water supplies after reasonable



1 treatment, suitable for recreational usage, capable of main-  
2 taining fish and other aquatic life, free from unsightly or  
3 malodorous nuisances due to floating solids or sludge deposits  
4 and adaptable to such other uses as may be provided by the  
5 comprehensive plan.

6       5.4 Enforcement. The commission may, after investi-  
7 gation and hearing, issue an order or orders upon any person  
8 or public or private corporation, or other entity, to cease  
9 the discharge of sewage, industrial or other waste into waters  
10 of the basin which it determines to be in violation of such  
11 rules and regulations as it shall have adopted for the pre-  
12 vention and abatement of pollution. Any such order or  
13 orders may prescribe the date, including a reasonable time  
14 for the construction of any necessary works, on or before  
15 which such discharge shall be wholly or partially discon-  
16 tinued, modified or treated, or otherwise conformed to the  
17 requirements of such rules and regulations. Such order shall  
18 be reviewable in any court of competent jurisdiction. The  
19 courts of the signatory parties shall have jurisdiction to en-  
20 force against any person, public or private corporation, or  
21 other entity, any and all provisions of this Article or of any  
22 such order. The commission may bring an action in its own  
23 name in any such court of competent jurisdiction to compel  
24 compliance with any provision of this Article, or any rule

1 or regulation issued pursuant thereto or of any such order,  
2 according to the practice and procedure of the court.

3       5.5 Further Jurisdiction. Nothing in this compact shall  
4 be construed to repeal, modify or qualify the authority of  
5 any signatory party to enact any legislation or enforce any  
6 additional conditions and restrictions to lessen or prevent  
7 the pollution of waters within its jurisdiction.

## 8                               ARTICLE 6

### 9                               FLOOD PROTECTION

10       Section 6.1 General Powers. The commission may  
11 plan, design, construct and operate and maintain projects  
12 and facilities, as it may deem necessary or desirable for  
13 flood damage reduction. It shall have power to operate such  
14 facilities and to store and release waters on the Delaware  
15 River and its tributaries and elsewhere within the basin, in  
16 such manner, at such times, and under such regulations as  
17 the commission may deem appropriate to meet flood condi-  
18 tions as they may arise.

#### 19       6.2 Flood Plain Zoning.

20       (a) The commission shall have power to adopt, amend  
21 and repeal recommended standards, in the manner provided  
22 by this section, relating to the nature and extent of the uses  
23 of land in areas subject to flooding by waters of the Delaware  
24 River and its tributaries. Such standards shall not be

1 deemed to impair or restrict the power of the signatory par-  
2 ties or their political subdivisions to adopt zoning and other  
3 land use regulations not inconsistent therewith.

4 (b) The commission may study and determine the na-  
5 ture and extent of the flood plains of the Delaware River and  
6 its tributaries. Upon the basis of such studies, it may es-  
7 tablish encroachment lines and delineate the areas subject to  
8 flood, including a classification of lands with reference to  
9 relative risk of flood and the establishment of standards for  
10 flood plain use which will safeguard the public health, safety  
11 and property. Prior to the adoption of any standards de-  
12 lineating such area or defining such use, the commission shall  
13 hold public hearings, in the manner provided by Article 14,  
14 with respect to the substance of such standards. At or be-  
15 fore such public hearings the proposed standards shall be  
16 available, and all interested persons shall be given an oppor-  
17 tunity to be heard thereon at the hearing. Upon the adop-  
18 tion and promulgation of such standards, the commission  
19 may enter into agreements to provide technical and financial  
20 aid to any municipal corporation for the administration and  
21 enforcement of any local land use ordinances or regulations  
22 giving effect to such standards.

23 6.3 Flood Lands Acquisition. The commission shall  
24 have power to acquire the fee or any lesser interest in lands



1 and improvements thereon within the area of a flood plain  
2 for the purpose of restricting the use of such property so  
3 as to minimize the flood hazard, converting property to uses  
4 appropriate to flood plain conditions, or preventing unwar-  
5 ranted constrictions that reduce the ability of the river chan-  
6 nel to carry flood water. Any such action shall be in accord  
7 with the standards adopted and promulgated pursuant to  
8 Section 6.2.

9       6.4 Flood and Stream Stage Warnings and Posting.

10 The commission may cause lands particularly subject to flood  
11 to be posted with flood hazard warnings, and may from time  
12 to time cause flood advisory notices to be published and cir-  
13 culated as conditions may warrant.

14                   ARTICLE 7

15                   WATERSHED MANAGEMENT

16       Section 7.1 Watersheds Generally. The commission  
17 shall promote sound practices of watershed management in  
18 the basin, including projects and facilities to retard runoff  
19 and waterflow and prevent soil erosion.

20       7.2 Soil Conservation and Forestry. The commission  
21 may acquire, sponsor or operate facilities and projects to  
22 encourage soil conservation, prevent and control erosion, and  
23 to promote land reclamation and sound forestry practices.

24       7.3 Fish and Wildlife. The commission may acquire,

1 sponsor or operate projects and facilities for the maintenance  
2 and improvement of fish and wildlife habitats related to  
3 the water resources of the basin.

#### 4 7.4 Cooperative Planning and Operation.

5 (a) The commission shall cooperate with the appro-  
6 priate agencies of the signatory parties and with other  
7 public and private agencies in the planning and effectua-  
8 tion of a coordinated program of facilities and projects  
9 authorized by this Article.

10 (b) The commission shall not operate any such project  
11 or facility unless it has first found and determined that no  
12 other suitable unit or agency of government is available to  
13 operate the same upon reasonable conditions, in accordance  
14 with the intent and purpose expressed in Section 1.5 of this  
15 compact.

### 16 ARTICLE 8

#### 17 RECREATION

18 Section 8.1 Development. The commission shall pro-  
19 vide for the development of water related public sports and  
20 recreational facilities. The commission on its own account  
21 or in cooperation with a signatory party, political subdivi-  
22 sion or any agency thereof, may provide for the construction,  
23 maintenance and administration of such facilities, subject to  
24 the provisions of Section 8.2 hereof.

#### 25 8.2 Cooperative Planning and Operation.

(a) The commission shall cooperate with the appropriate agencies of the signatory parties and with other public and private agencies in the planning and effectuation of a coordinated program of facilities and projects authorized by this article.

(b) The commission shall not operate any such project or facility unless it has first found and determined that no other suitable unit or agency of government is available to operate the same upon reasonable conditions, in accordance with the intent and purpose expressed in Section 1.5 of this compact.

8.3 Operation and Maintenance. The commission, within limits prescribed by this article, shall:

(a) Encourage activities of other public agencies having water related recreational interests and assist in the coordination thereof;

(b) Recommend standards for the development and administration of water related recreational facilities;

(c) Provide for the administration, operation and maintenance of recreational facilities owned or controlled by the commission and for the letting and supervision of private concessions in accordance with this article.

8.4 Concessions. The commission shall after notice and public hearing provide by regulation for the award of contracts for private concessions in connection with recreational



1 facilities, including any renewal or extension thereof, upon  
2 sealed competitive bids after public advertisement therefor.

## 3 ARTICLE 9

### 4 HYDROELECTRIC POWER

5 Section 9.1 Development. The waters of the Dela-  
6 ware River and its tributaries may be impounded and used  
7 by or under authority of the commission for the generation  
8 of hydroelectric power and hydroelectric energy, in accord-  
9 ance with the comprehensive plan.

10 9.2 Power Generation. The commission may develop  
11 and operate, or authorize to be developed and operated,  
12 dams and related facilities and appurtenances for the purpose  
13 of generating hydroelectric power and hydroelectric energy.

14 9.3 Transmission. The commission may provide facil-  
15 ities for the transmission of hydroelectric power and hydro-  
16 electric energy produced by it where such facilities are not  
17 otherwise available upon reasonable terms, for the purpose  
18 of wholesale marketing of power and nothing herein shall  
19 be construed to authorize the commission to engage in the  
20 business of direct sale to consumers.

21 9.4 Development Contracts. The Commission may  
22 after public notice and hearing enter into contracts on rea-  
23 sonable terms, consideration and duration under which  
24 public utilities or public agencies may develop hydroelectric

1 power and hydroelectric energy through the use of dams,  
2 related facilities and appurtenances.

3       9.5 Rates and Charges. Rates and charges fixed by  
4 the commission for power which is produced by its facilities  
5 shall be reasonable, nondiscriminatory, and just.

## 6                                   ARTICLE 10

### 7           REGULATION OF WITHDRAWALS AND DIVERSIONS

8       Section 10.1 Power of Regulation. The commission  
9 may regulate and control withdrawals and diversions from  
10 surface waters and ground waters of the basin, as provided  
11 by this article. The commission may enter into agreements  
12 with the signatory parties relating to the exercises of such  
13 power of regulation or control and may delegate to any of  
14 them such powers of the commission as it may deem neces-  
15 sary or desirable.

16       10.2 Determination of Protected Areas. The com-  
17 mission may from time to time after public hearing upon due  
18 notice determine and delineate such areas within the basin  
19 wherein the demands upon supply made by water users have  
20 developed or threaten to develop to such a degree as to create  
21 a water shortage or to impair or conflict with the require-  
22 ments or effectuation of the comprehensive plan, and any  
23 such areas may be designated as "protected areas." The

1 commission, whenever it determines that such shortage no  
2 longer exists, shall terminate the protected status of such  
3 area and shall give public notice of such termination.

4       10.3 Withdrawal Permits. In any protected areas so  
5 determined and delineated, no person, firm, corporation or  
6 other entity shall divert or withdraw water for domestic, mu-  
7 nicipal, agricultural or industrial uses in excess of such quan-  
8 tities as the commission may prescribe by general regulation,  
9 except (i) pursuant to a permit granted under this article,  
10 or (ii) pursuant to a permit or approval heretofore granted  
11 under the laws of any of the signatory states.

12       10.4 Emergency. In the event of a drought or other  
13 condition which may cause an actual and immediate short-  
14 age of available water supply within the basin, or within any  
15 part thereof, the commission may, after public hearing, de-  
16 termine and delineate the area of such shortage and declare  
17 a water supply emergency therein. For the duration of such  
18 emergency as determined by the commission no person, firm,  
19 corporation or other public or private entity shall divert or  
20 withdraw water for any purpose, in excess of such quantities  
21 as the commission may prescribe by general regulation or  
22 authorize by special permit granted hereunder.

23       10.5 Standards. Permits shall be granted, modified or  
24 denied as the case may be so as to avoid such depletion of



1 the natural stream flows and ground waters in the protected  
2 area or in an emergency area as will adversely affect the  
3 comprehensive plan or the just and equitable interests and  
4 rights of other lawful users of the same source, giving due  
5 regard to the need to balance and reconcile alternative and  
6 conflicting uses in the event of an actual or threatened short-  
7 age of water of the quality required.

8 10.6 Judicial Review. The determinations and de-  
9 lineations of the commission pursuant to Section 10.2 and  
10 the granting, modification or denial of permits pursuant to  
11 Section 10.3 through 10.5 shall be subject to judicial review  
12 in any court of competent jurisdiction.

13 10.7 Maintenance of Records. Each state shall pro-  
14 vide for the maintenance and preservation of such records  
15 of authorized diversions and withdrawals and the annual  
16 volume thereof as the commission shall prescribe. Such  
17 records and supplementary reports shall be furnished to the  
18 commission at its request.

19 10.8 Existing State Systems. Whenever the commis-  
20 sion finds it necessary or desirable to exercise the powers  
21 conferred by this article any diversion or withdrawal per-  
22 mits authorized or issued under the laws of any of the signa-  
23 tory states shall be superseded to the extent of any conflict  
24 with the control and regulation exercised by the commission.

## ARTICLE 11

## INTERGOVERNMENTAL RELATIONS

Section 11.1 Federal Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern federal projects affecting the water resources of the basin, subject in each case to the provisions of Section 1.4 of this compact:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the commission in the comprehensive plan;

(c) Each federal agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section.

11.2 State and Local Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern projects

1 of the signatory states, their political subdivisions and public  
2 corporations affecting water resources of the basin:

3 (a) The planning of all projects related to powers dele-  
4 gated to the commission by this compact shall be undertaken  
5 in consultation with the commission;

6 (b) No expenditure or commitment shall be made for  
7 or on account of the construction, acquisition or operation of  
8 any project or facility unless it shall have first been included  
9 by the commission in the comprehensive plan;

10 (c) Each state and local agency otherwise authorized  
11 by law to plan, design, construct, operate or maintain any  
12 project or facility in or for the basin shall continue to have,  
13 exercise and discharge such authority, except as specifically  
14 provided by this section.

15 11.3 Reserved Taxing Powers of States. Each of the  
16 signatory parties reserves the right to levy, assess and col-  
17 lect fees, charges and taxes on or measured by the withdrawal  
18 or diversion of waters of the basin for use within the juris-  
19 dictions of the respective signatory parties.

20 11.4 Project Costs and Evaluation Standards. The  
21 commission shall establish uniform standards and procedures  
22 for the evaluation, determination of benefits, and cost alloca-  
23 tions of projects affecting the basin, and for the determina-  
24 tion of project priorities, pursuant to the requirements of the



1 comprehensive plan and its water resources program. The  
2 commission shall develop equitable cost sharing and reim-  
3 bursement formulas for the signatory parties including:

4 (a) Uniform and consistent procedures for the allocation  
5 of project costs among purposes included in multiple-pur-  
6 pose programs;

7 (b) Contracts and arrangements for sharing financial  
8 responsibility among and with signatory parties, public  
9 bodies, groups and private enterprise, and for the supervision  
10 of their performance;

11 (c) Establishment and supervision of a system of ac-  
12 counts for reimbursable purposes and directing the payments  
13 and charges to be made from such accounts;

14 (d) Determining the basis and apportioning amounts  
15 (i) of reimbursable revenues to be paid signatory parties or  
16 their political subdivisions, and (ii) of payments in lieu of  
17 taxes to any of them.

18 11.5 Cooperative Services. The commission shall  
19 furnish technical services, advice and consultation to author-  
20 ized agencies of the signatory parties with respect to the  
21 water resources of the basin, and each of the signatory  
22 parties pledges itself to provide technical and administrative  
23 services to the commission upon request, within the limits  
24 of available appropriations and to cooperate generally with  
25 the commission for the purposes of this compact, and the

1 cost of such services may be reimbursable whenever the  
2 parties deem appropriate.

## 3 ARTICLE 12

### 4 CAPITAL FINANCING

5 Section 12.1 Borrowing Power. The commission may  
6 borrow money for any of the purposes of this compact, and  
7 may issue its negotiable bonds and other evidences of in-  
8 debtedness in respect thereto. All such bonds and evidences  
9 of indebtedness shall be payable solely out of the properties  
10 and revenues of the commission without recourse to taxation.  
11 The bonds and other obligations of the commission, except as  
12 may be otherwise provided in the indenture under which  
13 they were issued, shall be direct and general obligations of  
14 the commission and the full faith and credit of the commis-  
15 sion are hereby pledged for the prompt payment of the debt  
16 service thereon and for the fulfillment of all other undertak-  
17 ings of the commission assumed by it to or for the benefit  
18 of the holders thereof.

19 12.2 Funds and Expenses. The purposes of this com-  
20 pact shall include without limitation thereto all costs of any  
21 project or facility or any part thereof, including interest dur-  
22 ing a period of construction and a reasonable time thereafter  
23 and any incidental expenses (legal, engineering, fiscal, finan-  
24 cial consultant and other expenses) connected with issuing  
25 and disposing of the bonds; all amounts required for the

1 creation of an operating fund, construction fund, reserve  
2 fund, sinking fund, or other special fund; all other expenses  
3 connected with the planning, design, acquisition, construc-  
4 tion, completion, improvement or reconstruction of any  
5 facility or any part thereof; and reimbursement of advances  
6 by the commission or by others for such purposes and for  
7 working capital.

8       12.3 Credit Excluded; Officers, State and Municipal.

9 The commission shall have no power to pledge the credit of  
10 any signatory party, or of any county or municipality, or  
11 to impose any obligation for payment of the bonds upon any  
12 signatory party or any county or municipality. Neither  
13 the commissioners nor any person executing the bonds  
14 shall be liable personally on the bonds of the commission  
15 or be subject to any personal liability or accountability by  
16 reason of the issuance thereof.

17       12.4 Funding and Refunding. Whenever the commis-  
18 sion deems it expedient, it may fund and refund its bonds  
19 and other obligations whether or not such bonds and obliga-  
20 tions have matured. It may provide for the issuance, sale  
21 or exchange of refunding bonds for the purpose of redeem-  
22 ing or retiring any bonds (including the payment of any  
23 premium, duplicate interest or cash adjustment required in  
24 connection therewith) issued by the commission or issued  
25 by any other issuing body, the proceeds of the sale of which



1 have been applied to any facility acquired by the commission  
2 or which are payable out of the revenues of any facility  
3 acquired by the commission. Bonds may be issued partly  
4 to refund bonds and other obligations then outstanding, and  
5 partly for any other purpose of the commission. All pro-  
6 visions of this compact applicable to the issuance of bonds  
7 are applicable to refunding bonds and to the issuance, sale or  
8 exchange thereof.

9 12.5 Bonds; Authorization Generally. Bonds and  
10 other indebtedness of the commission shall be authorized by  
11 resolution of the commission. The validity of the authoriza-  
12 tion and issuance of any bonds by the commission shall not  
13 be dependent upon nor affected in any way by: (i) the  
14 disposition of bond proceeds by the commission or by con-  
15 tract, commitment or action taken with respect to such pro-  
16 ceeds; or (ii) the failure to complete any part of the project  
17 for which bonds are authorized to be issued. The commis-  
18 sion may issue bonds in one or more series and may provide  
19 for one or more consolidated bond issues, in such principal  
20 amounts and with such terms and provisions as the commis-  
21 sion may deem necessary. The bonds may be secured by  
22 a pledge of all or any part of the property, revenues and  
23 franchises under its control. Bonds may be issued by the  
24 commission in such amount, with such maturities and in  
25 such denominations and form or forms, whether coupon or

1 registered, as to both principal and interest, as may be de-  
2 termined by the commission. The commission may provide  
3 for redemption of bonds prior to maturity on such notice  
4 and at such time or times and with such redemption pro-  
5 visions, including premiums, as the commission may  
6 determine.

7       12.6 Bonds; Resolutions and Indentures Generally.  
8 The commission may determine and enter into indentures  
9 providing for the principal amount, date or dates, maturities,  
10 interest rate, denominations, form, registration, transfer,  
11 interchange and other provisions of the bonds and coupons  
12 and the terms and conditions upon which the same shall be  
13 executed, issued, secured, sold, paid, redeemed, funded and  
14 refunded. The resolution of the commission authorizing any  
15 bond or any indenture so authorized under which the bonds  
16 are issued may include all such covenants and other pro-  
17 visions other than any restriction on the regulatory powers  
18 vested in the commission by this compact as the commission  
19 may deem necessary or desirable for the issue, payment,  
20 security, protection or marketing of the bonds, including  
21 without limitation covenants and other provisions as to the  
22 rates or amounts of fees, rents and other charges to be  
23 charged or made for use of the facilities; the use, pledge,  
24 custody, securing, application and disposition of such rev-

1 enues, of the proceeds of the bonds, and of any other moneys  
2 of the commission; the operation, maintenance, repair and  
3 reconstruction of the facilities and the amounts which may be  
4 expended therefor; the sale, lease or other disposition of the  
5 facilities; the insuring of the facilities and of the revenues  
6 derived therefrom; the construction or other acquisition of  
7 other facilities; the issuance of additional bonds or other in-  
8 debtedness; the rights of the bondholders and of any trustee  
9 for the bondholders upon default by the commission or other-  
10 wise; and the modification of the provisions of the indenture  
11 and of the bonds. Reference on the face of the bonds to such  
12 resolution or indenture by its date of adoption or the ap-  
13 parent date on the face thereof is sufficient to incorporate all  
14 of the provisions thereof and of this compact into the body  
15 of the bonds and their appurtenant coupons. Each taker  
16 and subsequent holder of the bonds or coupons, whether the  
17 coupons are attached to or detached from the bonds, has re-  
18 course to all of the provisions of the indenture and of this  
19 compact and is bound thereby.

20 12.7 Maximum Maturity. No bond or its terms shall  
21 mature in more than fifty years from its own date and in the  
22 event any authorized issue is divided into two or more series  
23 or divisions, the maximum maturity date herein authorized  
24 shall be calculated from the date on the face of each bond



1 separately, irrespective of the fact that different dates may be  
2 prescribed for the bonds of each separate series or division of  
3 any authorized issue.

4 12.8 Tax Exemption. All bonds issued by the com-  
5 mission under the provisions of this compact and the interest  
6 thereof shall at all times be free and exempt from all taxation  
7 by or under authority of any of the signatory parties, except  
8 for transfer, inheritance and estate taxes.

9 12.9 Interest. Bonds shall bear interest at a rate of  
10 not to exceed six percent per annum, payable annually or  
11 semi-annually.

12 12.10 Place of Payment. The commission may pro-  
13 vide for the payment of the principal and interest of bonds  
14 at any place or places within or without the signatory states,  
15 and in any specified lawful coin or currency of the United  
16 States of America.

17 12.11 Execution. The commission may provide for  
18 the execution and authentication of bonds by the manual,  
19 lithographed or printed facsimile signature of officers of the  
20 commission, and by additional authentication by a trustee or  
21 fiscal agent appointed by the commission. If any of the  
22 officers whose signatures or counter signatures appear upon  
23 the bonds or coupons cease to be officers before the delivery  
24 of the bonds or coupons, their signatures or counter signa-  
25 tures are nevertheless valid and of the same force and effect

1 as if the officers had remained in office until the delivery of  
2 the bonds and coupons.

3 12.12 Holding Own Bonds. The commission shall  
4 have power out of any funds available therefor to purchase  
5 its bonds and may hold, cancel or resell such bonds.

6 12.13 Sale. The commission may fix terms and con-  
7 ditions for the sale or other disposition of any authorized  
8 issue of bonds. The commission may sell bonds at less than  
9 their par or face value but no issue of bonds may be sold at  
10 an aggregate price below the par or face value thereof if  
11 such sale would result in a net interest cost to the commis-  
12 sion calculated upon the entire issue so sold of more than  
13 six percent per annum payable semi-annually, according to  
14 standard tables of bond values. All bonds issued and sold for  
15 cash pursuant to this act shall be sold on sealed proposals to  
16 the highest bidder. Prior to such sale, the commission shall  
17 advertise for bids by publication of a notice of sale not less  
18 than ten days prior to the date of sale, at least once in a  
19 newspaper of general circulation printed and published in  
20 New York City carrying municipal bond notices and de-  
21 voted primarily to financial news. The commission may  
22 reject any and all bids submitted and may thereafter sell the  
23 bonds so advertised for sale at private sale to any financially  
24 responsible bidder under such terms and conditions as it  
25 deems most advantageous to the public interest, but the bonds

1 shall not be sold at a net interest cost calculated upon the  
2 entire issue so advertised, greater than the lowest bid which  
3 was rejected. In the event the commission desires to issue  
4 its bonds in exchange for an existing facility or portion  
5 thereof, or in exchange for bonds secured by the revenues of  
6 an existing facility, it may exchange such bonds for the  
7 existing facility or portion thereof or for the bonds so se-  
8 cured, plus an additional amount of cash, without advertising  
9 such bonds for sale.

10       12.14 Negotiability. All bonds issued under the pro-  
11 visions of this compact are negotiable instruments, except  
12 when registered in the name of a registered owner.

13       12.15 Legal Investments. Bonds of the commission  
14 shall be legal investments for savings banks, fiduciaries and  
15 public funds in each of the signatory states.

16       12.16 Validation Proceedings. Prior to the issuance of  
17 any bonds, the commission may institute a special proceeding  
18 to determine the legality of proceedings to issue the bonds  
19 and their validity under the laws of any of the signatory  
20 parties. Such proceeding shall be instituted and prosecuted  
21 in rem and the judgment rendered therein shall be conclusive  
22 against all persons whomsoever and against each of the  
23 signatory parties.

24       12.17 Recording. No indenture need be recorded or  
25 filed in any public office, other than the office of the com-



1 mission. The pledge of revenues provided in any indenture  
2 shall take effect forthwith as provided therein and irrespec-  
3 tive of the date of receipt of such revenues by the commission  
4 or the indenture trustee. Such pledge shall be effective as  
5 provided in the indenture without physical delivery of the  
6 revenues to the commission or to the indenture trustee.

7       12.18 Pledged Revenues. Bond redemption and  
8 interest payments shall, to the extent provided in the resolu-  
9 tion or indenture, constitute a first, direct and exclusive  
10 charge and lien on all such rates, rents, tolls, fees and charges  
11 and other revenues and interest thereon received from the  
12 use and operation of the facility, and on any sinking or  
13 other funds created therefrom. All such rates, rents, tolls,  
14 fees, charges and other revenues, together with interest  
15 thereon, shall constitute a trust fund for the security and pay-  
16 ment of such bonds and except as and to the extent provided  
17 in the indenture with respect to the payment therefrom  
18 of expenses for other purposes including administration,  
19 operation, maintenance, improvements or extensions of the  
20 facilities or other purposes shall not be used or pledged for  
21 any other purpose so long as such bonds, or any of them,  
22 are outstanding and unpaid.

23       12.19 Remedies. The holder of any bond may for the  
24 equal benefit and protection of all holders of bonds similarly  
25 situated: (a) by mandamus or other appropriate proceed-

1 ings require and compel the performance of any of the duties  
2 imposed upon the commission or assumed by it, its officers,  
3 agents or employees under the provisions of any indenture,  
4 in connection with the acquisition, construction, operation,  
5 maintenance, repair, reconstruction or insurance of the fa-  
6 cilities, or in connection with the collection, deposit, invest-  
7 ment, application and disbursement of the rates, rents, tolls,  
8 fees, charges and other revenues derived from the operation  
9 and use of the facilities, or in connection with the deposit, in-  
10 vestment and disbursement of the proceeds received from  
11 the sale of bonds; or (b) by action or suit in a court of  
12 competent jurisdiction of any signatory party require the  
13 commission to account as if it were the trustee of an express  
14 trust, or enjoin any acts or things which may be unlawful  
15 or in violation of the rights of the holders of the bonds. The  
16 enumeration of such rights and remedies does not, however,  
17 exclude the exercise or prosecution of any other rights or  
18 remedies available to the holders of bonds.

19 12.20 Capital Financing by Signatory Parties; Guar-  
20 antees.

21 (a) The signatory parties will provide such capital funds  
22 required for projects of the commission as may be authorized  
23 by their respective statutes in accordance with a cost sharing  
24 plan prepared pursuant to Article 11 of this compact; but  
25 nothing in this section shall be deemed to impose any man-

1 datory obligation on any of the signatory parties other than  
2 such obligations as may be assumed by a signatory party in  
3 connection with a specific project or facility.

4 (b) Bonds of the commission, notwithstanding any  
5 other provision of this compact, may be executed and de-  
6 livered to any duly authorized agency of any of the signatory  
7 parties without public offering and may be sold and resold  
8 with or without the guarantee of such signatory party, sub-  
9 ject to and in accordance with the constitutions of the re-  
10 spective signatory parties.

11 (c) The commission may receive and accept, and the  
12 signatory parties may make, loans, grants, appropriations,  
13 advances and payments of reimbursable or non-reimbursable  
14 funds or property in any form for the capital or operating  
15 purposes of the commission.

## 16 ARTICLE 13

### 17 PLAN, PROGRAM AND BUDGETS

18 Section 13.1 Comprehensive Plan. The commission  
19 shall develop and adopt, and may from time to time review  
20 and revise, a comprehensive plan for the immediate and long  
21 range development and use of the water resources of the ba-  
22 sin. The plan shall include all public and private projects  
23 and facilities which are required, in the judgment of the  
24 commission, for the optimum planning, development, con-  
25 servation, utilization, management and control of the water



1 resources of the basin to meet present and future needs; pro-  
2 vided that the plan shall include any projects required to con-  
3 form with any present or future decree or judgment of any  
4 court of competent jurisdiction. The commission may adopt  
5 a comprehensive plan or any revision thereof in such part  
6 or parts as it may deem appropriate, provided that before the  
7 adoption of the plan or any part or revision thereof the com-  
8 mission shall consult with water users and interested public  
9 bodies and public utilities and shall consider and give due  
10 regard to the findings and recommendations of the various  
11 agencies of the signatory parties and their political subdivi-  
12 sions. The commission shall conduct public hearings with  
13 respect to the comprehensive plan prior to the adoption of the  
14 plan or any part or revision thereof.

15 13.2 Water Resources Program. The commission  
16 shall annually adopt a water resources program, based upon  
17 the comprehensive plan, consisting of the projects and facili-  
18 ties which the commission proposes to be undertaken by the  
19 commission and by other authorized governmental and  
20 private agencies, organizations and persons during the en-  
21 suing six years or such other reasonably foreseeable period as  
22 the commission may determine. The water resources pro-  
23 gram shall include a systematic presentation of:

24 (1) the quantity and quality of water resources needs for  
25 such period;

1       (2) the existing and proposed projects and facilities re-  
2       quired to satisfy such needs, including all public and private  
3       projects to be anticipated;

4       (3) a separate statement of the projects proposed to be  
5       undertaken by the commission during such period.

6       13.3 Annual Current Expense and Capital Budgets.

7       (a) The commission shall annually adopt a capital  
8       budget including all capital projects it proposes to undertake  
9       or continue during the budget period containing a statement  
10      of the estimated cost of each project and the method of  
11      financing thereof.

12      (b) The commission shall annually adopt a current  
13      expense budget for each fiscal year. Such budget shall in-  
14      clude the commission's estimated expenses for administra-  
15      tion, operation, maintenance and repairs, including a separate  
16      statement thereof for each project, together with its cost  
17      allocation. The total of such expenses shall be balanced by  
18      the commission's estimated revenues from all sources, includ-  
19      ing the cost allocations undertaken by any of the signatory  
20      parties in connection with any project. Following the  
21      adoption of the annual current expense budget by the com-  
22      mission, the executive director of the commission shall:

23      (1) certify to the respective signatory parties the amounts  
24      due in accordance with existing cost sharing established for  
25      each project; and

(2) transmit certified copies of such budget to the principal budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures. The amount required to balance the current expense budget in addition to the aggregate amount of item (1) above and all other revenues available to the commission shall be apportioned equitably among the signatory parties by unanimous vote of the commission, and the amount of such apportionment to each signatory party shall be certified together with the budget.

(c) The respective signatory parties covenant and agree to include the amounts so apportioned for the support of the current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the commission in quarterly installments during its fiscal year, provided that the commission may draw upon its working capital to finance its current expense budget pending remittances by the signatory parties.

## ARTICLE 14

## GENERAL PROVISIONS

23       Section 14.1   Auxiliary Powers of Commission; Func-  
24   tions of Commissioners.



1 (a) The commission, for the purposes of this compact,  
2 may:

3 (1) Adopt and use a corporate seal, enter into contracts,  
4 sue and be sued in all courts of competent jurisdiction;

5 (2) Receive and accept such payments, appropriations,  
6 grants, gifts, loans, advances and other funds, properties and  
7 services as may be transferred or made available to it by any  
8 signatory party or by any other public or private corporation  
9 or individual, and enter into agreements to make reimburse-  
10 ment for all or part thereof;

11 (3) Provide for, acquire and adopt detailed engineering,  
12 administrative, financial and operating plans and specifica-  
13 tions to effectuate, maintain or develop any facility or  
14 project;

15 (4) Control and regulate the use of facilities owned or  
16 operated by the commission;

17 (5) Acquire, own, operate, maintain, control, sell and  
18 convey real and personal property and any interest therein  
19 by contract, purchase, lease, license, mortgage or otherwise  
20 as it may deem necessary for any project or facility, includ-  
21 ing any and all appurtenances thereto necessary, useful or  
22 convenient for such ownership, operation, control, mainte-  
23 nance or conveyance;

1       (6) Have and exercise all corporate powers essential  
2 to the declared objects and purposes of the commission.

3       (b) The commissioners, subject to the provisions of this  
4 compact, shall:

5       (1) Serve as the governing body of the commission,  
6 and exercise and discharge its powers and duties except  
7 as otherwise provided by or pursuant to this compact;

8       (2) Determine the character of and the necessity for its  
9 obligations and expenditures and the manner in which they  
10 shall be incurred, allowed, and paid subject to any provi-  
11 sions of law specifically applicable to agencies or instru-  
12 mentalities created by compact;

13       (3) Provide for the internal organization and administra-  
14 tion of the commission;

15       (4) Appoint the principal officers of the commission  
16 and delegate to and allocate among them administrative  
17 functions, powers and duties;

18       (5) Create and abolish offices, employments and posi-  
19 tions as it deems necessary for the purposes of the commis-  
20 sion, and subject to the provisions of this article, fix and  
21 provide for the qualification, appointment, removal, term,  
22 tenure, compensation, pension and retirement rights of its  
23 officers and employees;

24       (6) Let and execute contracts to carry out the powers  
25 of the commission.

1       14.2 Regulations; Enforcement. The commission  
2 may:

3       (a) Make and enforce reasonable rules and regulations  
4 for the effectuation, application and enforcement of this com-  
5 pact; and it may adopt and enforce practices and schedules  
6 for or in connection with the use, maintenance and admin-  
7 istration of projects and facilities it may own or operate and  
8 any product or service rendered thereby; provided that any  
9 rule or regulation, other than one which deals solely with  
10 the internal management of the commission, shall be adopted  
11 only after public hearing and shall not be effective unless  
12 and until filed in accordance with the law of the respective  
13 signatory parties applicable to administrative rules and reg-  
14 ulations generally; and

15       (b) Designate any officer, agent or employee of the  
16 commission to be an investigator or watchman and such  
17 person shall be vested with the powers of a peace officer of  
18 the state in which he is duly assigned to perform his duties.

19       14.3 Tax Exemption. The commission, its property,  
20 functions, and activities shall be exempt from taxation by or  
21 under the authority of any of the signatory parties or any  
22 political subdivision thereof; provided that in lieu of prop-  
23 erty taxes the commission shall, as to specific projects, make  
24 payments to local taxing districts in annual amounts which  
25 shall equal the taxes lawfully assessed upon property for the



1 tax year next prior to its acquisition by the commission for  
2 a period of ten years. The nature and amount of such pay-  
3 ments shall be reviewed by the commission at the end of ten  
4 years, and from time to time thereafter, upon reasonable  
5 notice and opportunity to be heard to the affected taxing  
6 district, and the payments may be thereupon terminated or  
7 continued in such reasonable amount as may be necessary  
8 or desirable to take into account hardships incurred and bene-  
9 fits received by the taxing jurisdiction which are attributable  
10 to the project.

11 14.4 Meetings; Public Hearings; Records, Minutes.

12 (a) All meetings of the commission shall be open to  
13 the public.

14 (b) The commission shall conduct at least one public  
15 hearing prior to the adoption of the comprehensive plan,  
16 water resources program, annual capital and current expense  
17 budgets, the letting of any contract for the sale or other dis-  
18 position by the commission of hydroelectric energy or water  
19 resources to any person, corporation or entity, and in all  
20 other cases wherein this compact requires a public hearing.  
21 Such hearing shall be held upon at least ten days public  
22 notice given by posting at the offices of the commission. The  
23 commission shall also provide forthwith for distribution of  
24 such notice to the press and by the mailing of a copy thereof  
25 to any person who shall request such notices.

1 (c) The minutes of the commission shall be a public  
2 record open to inspection at its offices during regular business  
3 hours.

#### 4 14.5 Officers Generally.

5 (a) The officers of the commission shall consist of an  
6 executive director and such additional officers, deputies and  
7 assistants as the commission may determine. The executive  
8 director shall be appointed and may be removed by the af-  
9 firmative vote of a majority of the full membership of the  
10 commission. All other officers and employees shall be ap-  
11 pointed by the executive director under such rules of pro-  
12 cedure as the commission may determine.

13 (b) In the appointment and promotion of officers and  
14 employees for the commission, no political, racial, religious  
15 or residence test or qualification shall be permitted or given  
16 consideration, but all such appointments and promotions  
17 shall be solely on the basis of merit and fitness. Any officer  
18 or employee of the commission who is found by the com-  
19 mission to be guilty of a violation of this section shall be  
20 removed from office by the commission.

21 14.6 Oath of Office. An oath of office in such form  
22 as the commission shall prescribe shall be taken, subscribed  
23 and filed with the commission by the executive director and  
24 by each officer appointed by him not later than fifteen days  
25 after the appointment.

1       14.7 Bond. Each officer shall give such bond and in  
2 such form and amount as the commission may require for  
3 which the commission may pay the premium.

4       14.8 Prohibited Activities.

5       (a) No commissioner, officer or employee shall:

6       (1) be financially interested, either directly or indi-  
7 rectly, in any contract, sale, purchase, lease or transfer of  
8 real or personal property to which the commission is a party;

9       (2) solicit or accept money or any other thing of value  
10 in addition to the compensation or expenses paid him by the  
11 commission for services performed within the scope of his  
12 official duties;

13       (3) offer money or any thing of value for or in considera-  
14 tion of obtaining an appointment, promotion or privilege  
15 in his employment with the commission.

16       (b) Any officer or employee who shall willfully violate  
17 any of the provisions of this section shall forfeit his office or  
18 employment.

19       (c) Any contract or agreement knowingly made in  
20 contravention of this section is void.

21       (d) Officers and employees of the commission shall be  
22 subject in addition to the provisions of this section to such  
23 criminal and civil sanctions for misconduct in office as may



1 be imposed by federal law and the law of the signatory state  
2 in which such misconduct occurs.

3 14.9 Purchasing. Contracts for the construction, re-  
4 construction or improvement of any facility when the ex-  
5 penditure required exceeds ten thousand dollars and contracts  
6 for the purchase of services, supplies, equipment and mate-  
7 rials when the expenditure required exceeds two thousand  
8 five hundred dollars shall be advertised and let upon sealed  
9 bids to the lowest responsible bidder. Notice requesting such  
10 bids shall be published in a manner reasonably likely to at-  
11 tract prospective bidders, which publication shall be made  
12 at least ten days before bids are received and in at least  
13 two newspapers of general circulation in the basin. The  
14 commission may reject any and all bids and readvertise in  
15 its discretion. If after rejecting bids the commission deter-  
16 mines and resolves that in its opinion the supplies, equip-  
17 ment and materials may be purchased at a lower price in the  
18 open market, the commission may give each responsible  
19 bidder an opportunity to negotiate a price and may proceed  
20 to purchase the supplies, equipment and materials in the open  
21 market at a negotiated price which is lower than the lowest  
22 rejected bid of a responsible bidder, without further ob-  
23 servance of the provisions requiring bids or notice. The com-

1 mission shall adopt rules and regulations to provide for pur-  
2 chasing from the lowest responsible bidder when sealed  
3 bids, notice and publication are not required by this section.  
4 The commission may suspend and waive the provisions of  
5 this section requiring competitive bids whenever:

6 (1) the purchase is to be made from or the contract to be  
7 made with the federal or any state government or any agency  
8 or political subdivision thereof or pursuant to any open end  
9 bulk purchase contract of any of them;

10 (2) the public exigency requires the immediate delivery  
11 of the articles or performance of the service;

12 (3) only one source of supply is available;

13 (4) the equipment to be purchased is of a technical na-  
14 ture and the procurement thereof without advertising is nec-  
15 essary in order to assure standardization of equipment and  
16 interchangeability of parts in the public interest; or

17 (5) services are to be provided of a specialized or pro-  
18 fessional nature.

19 14.10 Insurance. The commission may self-insure  
20 or purchase insurance and pay the premiums therefor against  
21 loss or damage to any of its properties; against liability for  
22 injury to persons or property; and against loss of revenue  
23 from any cause whatsoever. Such insurance coverage shall

1 be in such form and amount as the commission may deter-  
2 mine, subject to the requirements of any agreement arising  
3 out of the issuance of bonds by the commission.

4 14.11 Annual Independent Audit.

5 (a) As soon as practical after the closing of the fiscal  
6 year, an audit shall be made of the financial accounts of  
7 the commission. The audit shall be made by qualified certi-  
8 fied public accountants selected by the commission, who have  
9 no personal interest direct or indirect in the financial affairs  
10 of the commission or any of its officers or employees. The  
11 report of audit shall be prepared in accordance with accepted  
12 accounting practices and shall be filed with the chairman and  
13 such other officers as the commission shall direct. Copies  
14 of the report shall be distributed to each commissioner and  
15 shall be made available for public distribution.

16 (b) Each signatory party by its duly authorized officers  
17 shall be entitled to examine and audit at any time all of the  
18 books, documents, records, files and accounts and all other  
19 papers, things or property of the commission. The repre-  
20 sentatives of the signatory parties shall have access to all  
21 books, documents, records, accounts, reports, files and all  
22 other papers, things or property belonging to or in use by  
23 the commission and necessary to facilitate the audit and



1 they shall be afforded full facilities for verifying transactions  
2 with the balances or securities held by depositaries, fiscal  
3 agents and custodians.

4 (c) The financial transactions of the commission shall  
5 be subject to audit by the general accounting office in ac-  
6 cordance with the principles and procedures applicable to  
7 commercial corporate transactions and under such rules and  
8 regulations as may be prescribed by the comptroller general  
9 of the United States. The audit shall be conducted at the  
10 place or places where the accounts of the commission are  
11 kept.

12 (d) Any officer or employee who shall refuse to give  
13 all required assistance and information to the accountants se-  
14 lected by the commission or to the authorized officers of any  
15 signatory party or who shall refuse to submit to them for  
16 examination such books, documents, records, files, accounts,  
17 papers, things or property as may be requested shall forfeit  
18 his office.

19 14.12 Reports. The commission shall make and publish  
20 an annual report to the legislative bodies of the signatory  
21 parties and to the public reporting on its programs, opera-  
22 tions and finances. It may also prepare, publish and dis-  
23 tribute such other public reports and informational materials  
24 as it may deem necessary or desirable.

1        14.13 Grants, Loans or Payments by States or Politi-  
2 cal Subdivisions.

3        (a) Any or all of the signatory parties or any political  
4 subdivision thereof may:

5        (1) Appropriate to the commission such funds as may  
6 be necessary to pay preliminary expenses such as the ex-  
7 penses incurred in the making of borings, and other studies  
8 of subsurface conditions, in the preparation of contracts for  
9 the sale of water and in the preparation of detailed plans  
10 and estimates required for the financing of a project;

11        (2) Advance to the commission, either as grants or  
12 loans, such funds as may be necessary or convenient to  
13 finance the operation and management of or construction by  
14 the commission of any facility or project;

15        (3) Make payments to the commission for benefits  
16 received or to be received from the operation of any of  
17 the projects or facilities of the commission.

18        (b) Any funds which may be loaned to the commission  
19 either by a signatory party or a political subdivision thereof  
20 shall be repaid by the commission through the issuance  
21 of bonds or out of other income of the commission, such  
22 repayment to be made within such period and upon such  
23 terms as may be agreed upon between the commission and  
24 the signatory party or political subdivision making the loan.

1        14.14    Condemnation Proceedings.

2        (a)    The commission shall have the power to acquire  
3    by condemnation the fee or any lesser interest in lands,  
4    lands lying under water, development rights in land, ripar-  
5    ian rights, water rights, waters and other real or personal  
6    property within the basin for any project or facility author-  
7    ized pursuant to this compact. This grant of power of  
8    eminent domain includes but is not limited to the power to  
9    condemn for the purposes of this compact any property  
10   already devoted to a public use, by whomsoever owned or  
11   held, other than property of a signatory party and any  
12   property held, constructed, operated or maintained in con-  
13   nection with a diversion authorized by a United States  
14   Supreme Court decree. Any condemnation of any property  
15   or franchises owned or used by a municipal or privately  
16   owned public utility, unless the affected public utility facility  
17   is to be relocated or replaced, shall be subject to the au-  
18   thority of such state board, commission or other body as  
19   may have regulatory jurisdiction over such public utility.

20        (b)    Such power of condemnation shall be exercised  
21   in accordance with the provisions of any federal law appli-  
22   cable to the commission; provided that if there is no such  
23   applicable federal law, condemnation proceedings shall be  
24   in accordance with the provisions of such general state con-



1 demnation law as may be in force in the signatory state in  
2 which the property is located.

3 (c) Any award or compensation for the taking of  
4 property pursuant to this article shall be paid by the com-  
5 mission, and none of the signatory parties nor any other  
6 agency, instrumentality or political subdivision thereof shall  
7 be liable for such award or compensation.

8 14.15 Conveyance of Lands and Relocation of Public  
9 Facilities.

10 (a) The respective officers, agencies, departments, com-  
11 missions or bodies having jurisdiction and control over real  
12 and personal property owned by the signatory parties are  
13 authorized and empowered to transfer and convey in accord-  
14 ance with the laws of the respective parties to the commis-  
15 sion any such property as may be necessary or convenient to  
16 the effectuation of the authorized purposes of the commission.

17 (b) Each political subdivision of each of the signatory  
18 parties is authorized and empowered, notwithstanding any  
19 contrary provision of law, to grant and convey to the com-  
20 mission, upon the commission's request, any real property  
21 or any interest therein owned by such political subdivision in-  
22 cluding lands lying under water and lands already devoted to  
23 public use which may be necessary or convenient to the ef-  
24 fection of the authorized purposes of the commission.

1       (c) Any highway, public utility or other public facility  
2 which will be dislocated by reason of a project deemed neces-  
3 sary by the commission to effectuate the authorized purposes  
4 of this compact shall be relocated and the cost thereof shall  
5 be paid in accordance with the law of the state in which the  
6 facility is located; provided that the cost of such relocation  
7 payable by the commission shall not in any event exceed the  
8 expenditure required to serve the public convenience and  
9 necessity.

10       14.16 Rights of Way. Permission is hereby granted  
11 to the commission to locate, construct and maintain any  
12 aqueducts, lines, pipes, conduits and auxiliary facilities au-  
13 thorized to be acquired, constructed, owned, operated or  
14 maintained by the commission in, over, under or across any  
15 streets and highways now or hereafter owned, opened or  
16 dedicated to or for public use, subject to such reasonable con-  
17 ditions as the highway department of the signatory party  
18 may require.

19       14.17 Penal Sanction. Any person, association or  
20 corporation who violates or attempts or conspires to violate  
21 any provision of this compact or any rule, regulation or order  
22 of the commission duly made, promulgated or issued pur-  
23 suant to the compact in addition to any other remedy,  
24 penalty or consequence provided by law shall be punishable  
25 as may be provided by statute of any of the signatory parties

1 within which the offense is committed; provided that in the  
2 absence of such provision any such person, association or  
3 corporation shall be liable to a penalty of not less than \$50  
4 nor more than \$1,000 for each such offense to be fixed by  
5 the court which the commission may recover in its own name  
6 in any court of competent jurisdiction, and in a summary  
7 proceeding where available under the practice and procedure  
8 of such court. For the purposes of this section in the event  
9 of a continuing offense each day of such violation, attempt  
10 or conspiracy shall constitute a separate offense.

11 14.18 Tort Liability. The commission shall be re-  
12 sponsible for claims arising out of the negligent acts or  
13 omissions of its officers, agents and employees only to the  
14 extent and subject to the procedures prescribed by law gen-  
15 erally with respect to officers, agents and employees of the  
16 government of the United States.

17 14.19 Effect on Riparian Rights. Nothing contained  
18 in this compact shall be construed as affecting or intending  
19 to affect or in any way to interfere with the law of the respec-  
20 tive signatory parties relating to riparian rights.

21 14.20 Amendments and Supplements. Amendments  
22 and supplements to this compact to implement the purposes  
23 thereof may be adopted by legislative action of any of the  
24 signatory parties concurred in by all of the others.

25 14.21 Construction and Severability. The provisions



1 of this act and of agreements thereunder shall be severable  
2 and if any phrase, clause, sentence or provision of this com-  
3 pact or such agreement is declared to be unconstitutional  
4 or the applicability thereof to any signatory party, agency  
5 or person is held invalid, the constitutionality of the remain-  
6 der of this compact or such agreement and the applicability  
7 thereof to any other signatory party, agency, person or cir-  
8 cumstance shall not be affected thereby. It is the legis-  
9 lative intent that the provisions of this compact be reason-  
10 ably and liberally construed.

11       14.22 Effective Date; Execution. This compact shall  
12 become binding and effective thirty days after the enactment  
13 of concurring legislation by the federal government, the  
14 states of Delaware, New Jersey and New York, and the  
15 Commonwealth of Pennsylvania. The compact shall be  
16 signed and sealed in six duplicate original copies by the  
17 respective chief executives of the signatory parties. One  
18 such copy shall be filed with the Secretary of State of each  
19 of the signatory parties or in accordance with the laws of  
20 the state in which the filing is made, and one copy shall be  
21 filed and retained in the archives of the commission upon its  
22 organization. The signatures shall be affixed and attested  
23 under the following form:

1       IN WITNESS WHEREOF, and in evidence of the  
2 adoption and enactment into law of this compact by the  
3 Congress and legislatures, respectively, of the signatory  
4 parties, the President of the United States and the respective  
5 Governors do hereby, in accordance with authority conferred by law, sign this compact in six duplicate original  
6 copies, as attested by the respective secretaries of state, and  
7 have caused the seals of the United States and of the respective states to be hereunto affixed this       day of  
8  
9  
10                               , 19   .

## 11                               PART II

### 12                               ARTICLE 15

#### 13                               EFFECTUATION

14       15.1. Reservations. In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the  
15 Compact, the consent to and participation in the Compact  
16 by the United States is subject to the following conditions  
17 and reservations:  
18

19       (a) That no provision of Section 3.7 of the Compact  
20 shall be deemed to authorize the Commission to impose any  
21 charge for water withdrawals or diversions from the Basin  
22 if such withdrawals or diversions could lawfully have been  
23 made without charge on the effective date of the Compact;

1 or to impose any charges with respect to commercial naviga-  
2 tion within the Basin, jurisdiction over which is reserved to  
3 the Federal government: *Provided*, That this paragraph  
4 shall be applicable to the extent not inconsistent with Section  
5 1.4 of this Compact;

6 (b) That nothing contained in the Compact shall be  
7 deemed to restrict the executive powers of the President in  
8 the event of a national emergency;

9 (c) That, notwithstanding the provisions of Article 2,  
10 section 2.2 of the Compact, the member of the commission  
11 appointed by the President of the United States and his  
12 alternate shall serve at the pleasure of the President;

13 (d) That nothing contained in the Compact shall be  
14 construed as impairing or in any manner affecting the appli-  
15 cability to all Federal funds budgeted and appropriated for  
16 use by the commission, of such authority over budgetary and  
17 appropriation matters as the President and Congress may  
18 have with respect to agencies in the Executive Branch of the  
19 Federal Government;

20 (e) That nothing contained in the Compact shall be  
21 construed as exempting from federal taxation the interest  
22 on any bonds issued by the commission except to the same  
23 extent that interest on state bonds is or may continue to be  
24 free or exempt from federal taxation under applicable  
25 federal law;



1       (f) That the Congress reserves the power and right to  
2 revise or modify the terms, conditions and provisions under  
3 which the United States may remain a party to the Compact;

4       (g) That no provision of the compact shall be construed  
5 to relinquish the functions, powers or duties of the Congress  
6 of the United States over any matters committed to it by  
7 the Constitution of the United States;

8       (h) That notwithstanding the provisions of section 2  
9 of this Act, the commission shall be subject to the provi-  
10 sions of the Act of June 30, 1936, 49 Stat. 2036, as  
11 amended, (U.S. Code, Title 41, secs. 35 through 45),  
12 the Act of March 3, 1931, 46 Stat. 1494, as amended (U.S.  
13 Code, Title 40, secs. 276a and 276a-1); and to the provi-  
14 sions of the regulations of the Secretary of Labor issued  
15 pursuant to the Act of June 13, 1934, 48 Stat. 948, as  
16 amended (U.S. Code, Title 40, sec. 287c);

17       (i) That the provisions of section 8.4 of Article 8  
18 of the Compact shall not be construed to apply to facili-  
19 ties operated pursuant to any other federal law;

20       (j) That, notwithstanding any other provision of this  
21 act, nothing contained in the Compact shall be construed as  
22 superseding or limiting the functions, under any other law,  
23 of the Surgeon General of the United States Public Health  
24 Service, or of the Public Health Service, or of any other  
25 officer or agency of the United States, relating to water

1 pollution, provided that the exercise of such functions shall  
2 not limit the authority of the commission to control, prevent,  
3 or abate water pollution;

4 (k) That all Acts and parts of Acts inconsistent with  
5 any provision of this joint resolution are hereby amended  
6 for the purpose of this joint resolution to the extent necessary  
7 to carry out the provisions of this joint resolution: *Provided,*  
8 *however,* That no act of the commission shall have the effect  
9 of repealing, modifying or amending any federal law;

10 (l) That for purposes of the Act of June 25, 1948, 62  
11 Stat. 982, as amended (Title 28, U.S. Code, chapter 171,  
12 and sections 1346 (b) and 240 (b) ) and the Act of March 3,  
13 1887, 24 Stat. 505, as amended (Title 28, U.S. Code, sec-  
14 tions 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411,  
15 2412, 2501) , and the Act of June 11, 1946, 60 Stat. 237, as  
16 amended (Title 5, U.S. Code, sections 1001 through 1011,  
17 Title 50 App. U.S. Code, section 1900) , the commission  
18 shall not be considered a Federal agency;

19 (m) That the officers and employees of the commission  
20 (other than the United States member, alternate United  
21 States member, and advisors, and personnel employed by  
22 the United States member under direct Federal appropria-  
23 tion) shall not be deemed to be, for any purpose, officers or

1 employees of the United States or to become entitled at any  
2 time by reason of employment by the commission to any  
3 compensation or benefit payable or made available by the  
4 United States solely and directly to its officers or employees;

5 (n) That neither the Compact nor this joint resolution  
6 shall be deemed to enlarge the authority of any Federal  
7 agency other than the commission to participate in or to  
8 provide funds for projects or activities in the Delaware River  
9 Basin;

10 (o) That the United States district courts shall have  
11 original jurisdiction of all cases or controversies arising under  
12 the Compact, and this Act and any case or controversy so  
13 arising initiated in a State Court shall be removable to the  
14 appropriate United States district court in the manner pro-  
15 vided by § 1446, Title 28, U.S.C. Nothing contained in  
16 the Compact or elsewhere in this Act shall be construed as  
17 a waiver by the United States of its immunity from suit;

18 (p) That the right to alter, amend, or repeal this joint  
19 resolution is hereby expressly reserved. The right is hereby  
20 reserved to the Congress or any of its standing committees  
21 to require the disclosure and furnishing of such information  
22 and data by the Delaware River Basin Compact Commis-  
23 sion as is deemed appropriate by the Congress or any such  
24 committee;

25 (q) That the President is authorized to take such action



1 as may be necessary and proper, in his discretion, to effectuate  
2 the Compact and the initial organization and operation of  
3 the commission thereunder;

4 (r) That the provisions of sections 2.4 and 2.7 of  
5 Article 2 of the Compact notwithstanding, the United States  
6 member, alternate United States member, and advisors  
7 there referred to may be paid compensation by the United  
8 States, such compensation to be fixed by the President at  
9 the rates which he shall deem to prevail in respect to com-  
10 parable officers in the executive branch;

11 (s) That executive departments and other agencies  
12 of the executive branch of the Federal Government shall  
13 cooperate with and furnish appropriate assistance to the  
14 United States Member. Such assistance shall include the  
15 furnishing of services and facilities and may include the de-  
16 tailing of personnel to the United States Member. Appro-  
17 priations are hereby authorized as necessary for the carrying  
18 out of the functions of the United States Member, including  
19 appropriations for the employment of personnel by the  
20 United States Member;

21 (t) That the commissioner appointed by the president  
22 may, at intervals of not less than six years, suspend any  
23 provision of the comprehensive plan which substantially  
24 affects the administration of any statute of the United States,  
25 and for the duration of such suspension the provision shall

1 not be applied under Sec. 3.8 or Sec. 11.1 of the compact  
2 to any other federal department, agency or instrumentality.  
3 Such suspension may be made effective by notice given at  
4 a regular meeting of the commission. Reinstatement of a  
5 suspended provision may be made effective at any time by  
6 like notice; and

7 (u) That nothing contained in the Compact shall be  
8 construed as in any manner impairing or affecting the licens-  
9 ing and regulatory powers of any other officer, agency or  
10 instrument of the United States: *Provided*, That any exercise  
11 of such licensing or regulatory powers in the Delaware River  
12 Basin shall not substantially conflict with any portion of the  
13 comprehensive plan adopted pursuant to section 13.1 of the  
14 compact, except as the comprehensive plan or any part  
15 thereof may be suspended pursuant to paragraph "t" of this  
16 section.

17 15.2 Effective Date: This Act shall take effect imme-  
18 diately.

Passed the House of Representatives June 29, 1961.

Attest:

RALPH R. ROBERTS,

*Clerk.*

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## JOINT RESOLUTION

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To grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes.

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JULY 5 (legislative day, JULY 3), 1961

Read twice and referred to the Committee on the  
Judiciary







Sen. Proxmire inserted a newspaper editorial "praising the good sense in the administration's proposed wheat and feed grain bills." pp. 11191-2

11. SOCIAL SECURITY. Sen. Proxmire inserted an article discussing the results of a poll among farm people in Wisc. which indicated they favored social security medical care for the aged. pp. 11198-9
12. PERSONNEL. The Post Office and Civil Service Committee voted to report the following bills: p. D539
  - H. R. 3279, with amendment, to increase the maximum rates of per diem allowance for employees of the Government traveling on official business;
  - S. 1070, with amendment, to amend the Federal Employees' Group Life Insurance Act of 1954, so as to provide additional group life insurance for Federal employees;
  - H. R. 5432, to make permanent the 1958 cost-of-living increases in annuities payable from the civil service retirement and disability fund;
  - S. 1640, with amendment, to amend the disability provisions of the Civil Service Retirement Act regarding employees who recover from disability; and
  - S. 740, to provide for allotment and advancement of pay for civilian employees in cases of emergency evacuations in overseas areas.

The "Daily Digest" states that the Post Office and Civil Service Committee agreed to hold hearings, but no date was fixed, on S. 1683, to accord employees of ASC County Offices and employees with past service as employees of the County Committees credit for such past service for retirement purposes. p. D539

Passed as reported S. 1458, to authorize the Federal Government to pay the costs of the transportation of the remains, families, and effects of Federal employees who die in service in Alaska and Hawaii. pp. 11181-2
13. BUDGETING. Received from the Budget Bureau a proposed bill to eliminate the requirements for certain detailed estimates in the annual budgets; to Government Operations Committee. p. 11146
14. RECLAMATION. Received from the Interior Department a letter that an adequate soil survey and land classification has been made of the lands in the Bully Creek extension of the Vale project, Ore., and that the lands to be irrigated are susceptible to the production of agricultural crops. p. 11146
15. CONSERVATION. Received a resolution from the California Legislature favoring H. R. 6793, to provide for establishment of the King Range National Conservation Area, and a resolution requesting funds for a study of the feasibility of either extending the Tehama-Colusa Canal through Yolo County to a terminus in the vicinity of Putah Creek, or constructing the proposed multipurpose Wilson Valley project. p. 11147
16. WATER RESOURCES. ~~Received from the California Legislature a resolution urging the optimum development of the Central Valley Basin and San Francisco Bay region of California, including multipurpose development of certain watersheds therein, and a resolution urging the establishment of a Federal water pollution control research facility in California. pp. 11148-9~~

Permission was granted to refer H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin compact, to the Interior Committee after the Judiciary Committee has completed consideration of the measure. p. 11155



17. FOREIGN TRADE. Sen. Carroll stated that "the Interior Department offered a new proposal for stockpiling lead and zinc and for financing the purchase of the metals for stockpiling by selling surplus farm products to foreign countries," and inserted two articles, "JFK Proposes Stockpile Plan for Lead, Zinc" and "U. S. Bid Rebuffed by Lead-Zinc Men -- Mining Industry Turns Down Stockpiling Proposal." pp. 11155-8  
Sen. Proxmire discussed the balance of payments and low foreign wages and inserted an article, "Inquiry Into German Prosperity." pp. 11208-11
18. FOREIGN AID. Sen. Miller inserted several items criticizing the foreign aid program. pp. 11213-4
19. LEGISLATIVE PROGRAM. Sen. Mansfield announced that S. 1154, the educational exchange bill, will be considered Mon. p. 11191
20. ADJOURNED until Mon., July 10. p. 11214

#### ITEMS IN APPENDIX

21. WATER RESOURCES. Extension of remarks of Sen. Anderson inserting two articles, "Federal Power Plans Stir Hope and Disputes in West," and "Water Holds Key to West's Future." pp. A5036-8
22. FARM PROGRAM. Extension of remarks of Rep. Gathings inserting an article discussing the administration's farm bill "Farsightedness Is Required." pp. A5044-5
23. MANPOWER. Extension of remarks of Sen. Keating inserting an article, "Technical Manpower for the Next Hundred Years." pp. A5054-5

#### BILLS INTRODUCED

24. EDUCATION. H. R. 8004, by Rep. Baldwin, and H. R. 8012, by Rep. Sisk, to extend for 1 year the temporary provisions of Public Laws 815 and 874, 81st Congress, which relate to Federal assistance in the construction and operation of schools in areas affected by Federal activities; to Education and Labor Committee.
25. SOIL BANK. H. R. 8006, by Rep. Karth, to amend section 107 (a) (3) of the Soil Bank Act, as amended; to Agriculture Committee.  
H. R. 8015, by Rep. Blatnik, to permit the taking of hay from conservation reserve acres for relief of farmers in drought-disaster areas; to Agriculture Committee.
26. LIVESTOCK LOANS. H. R. 8016, by Rep. Karth, to amend the act of April 6, 1949, as amended, to authorize the Secretary of Agriculture to make emergency livestock loans under such act until December 31, 1961; to Agriculture Committee.
27. INSECT CONTROL. S. 2209, by Sen. Young, N. Dak., to amend the Soil Bank Act to authorize the Secretary of Agriculture to assist in the controlling of grasshoppers on conservation reserve acreage under certain conditions; to Agriculture and Forestry Committee.
28. WHEAT QUOTAS. S. J. Res. 116, by Sen. Ellender, to extend the time for conducting the referendum with respect to the national marketing quota for wheat for the marketing year beginning July 1, 1962; to Agriculture and Forestry Committee.



by adding at the end thereof a new paragraph as follows:

"(9) Person—

"The term 'person' shall not include any organization, service for which is excepted from employment under paragraph (8) of section 3306(c)."

On page 34, line 6, strike out "SEC. 211" and insert in lieu thereof "SEC. 212".

# TEMPORARY REDUCTION OF EXEMPTION FROM DUTY ENJOYED BY RETURNING RESIDENTS—AMENDMENT

## VISITORS' GIFT LIMITATION

Mr. JAVITS. Mr. President, I send to the desk for printing an amendment to H.R. 6611, the bill reported by the Senate Finance Committee to reduce temporarily the exemption from duty enjoyed by returning U.S. residents.

This amendment is similar to S. 1280, which I had introduced previously, and to an amendment to H.R. 6611 which I had proposed to the Finance Committee. It differs from these only in that it incorporates two technical amendments recommended by the Treasury Department, which serve to clarify further the purposes of the bill.

The amendment would increase the amount of gifts which foreign visitors to the United States could bring in without payment of duty, in order to equalize the new provisions for returning residents and visitors to this country. Clearly, in considering H.R. 6611, dealing with U.S. tourist imports, we should at the same time act to eliminate the related problem of imports by foreign visitors.

This legislation was first proposed by the Randall Commission, which was established as the result of an amendment to the Mutual Security Act of 1957 which I proposed and which made a number of recommendations for the improvement of tourism in the United States. Many of its recommendations have already received favorable congressional action.

I was pleased to note that the reports of the Treasury and State Departments on this legislation were favorable, and that the Department of State indicated that enactment of these provisions would remove a source of irritation to visitors to this country and would strengthen present efforts to encourage tourism to the United States.

Mr. President, I ask unanimous consent that the amendment may be printed as a part of my remarks.

The ACTING PRESIDENT pro tempore. The amendment will be received, printed, and lie on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

SEC. 3. (a) Paragraph 1798(b) of the Tariff Act of 1930, as amended (19 U.S.C., sec. 1201, par. 1798(b)), is amended by renumbering subdivisions (2) and (3) as (3) and (4), respectively, and by inserting after subdivision (1) the following new subdivision:

"(2) Not exceeding \$100 in value of articles (including not more than one wine gallon of alcoholic beverages and not more than one hundred cigars) accompanying such person to be disposed of by him as bona fide gifts, if such person has not claimed an exemption under this subdivision (2) within the six months immediately preceding his arrival

and he intends to remain in the United States for not less than 72 hours;"

(b) Paragraph 1798(g) of such Act, as amended (19 U.S.C., sec. 1201, par. 1798(g)), is amended by striking out "subdivision (2) of subparagraph (b)" and inserting in lieu thereof "subdivision (3) of subparagraph (b)".

(c) Subdivision (2)(B) of section 321(a) of such Act, as amended (19 U.S.C., sec. 1321), is amended by inserting "(b)(2) or" after "paragraph 1798".

(d) The amendments made by subsections (a), (b), and (c) shall apply with respect to persons arriving in the United States on or after the 30th day after the date of the enactment of this Act.

## CHANGE OF REFERENCE

Mr. ANDERSON. Mr. President, I ask unanimous consent that the Senate Interior Committee be discharged from further consideration of S. 698, a bill to amend the act of October 31, 1949, with respect to payments to Bernalillo County, N. Mex., for furnishing hospital care for certain Indians, and that the bill be appropriately rereferred.

In the past this legislation has been before the Senate Labor and Public Welfare Committee which has jurisdiction over the subject matter.

There being no objection, the bill (S. 698) was referred to the Committee on Labor and Public Welfare.

## DELAWARE RIVER BASIN COMPACT—REFERENCE OF JOINT RESOLUTION

Mr. ANDERSON. Mr. President, I ask unanimous consent that when the Senate Judiciary Committee concludes action on House Joint Resolution 225, to grant the consent of Congress to the Delaware River Basin compact and to enter such compact on behalf of the United States and for related purposes, that the joint resolution be referred to the Senate Interior Committee for consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## EXTENSION OF SALINE WATER PROGRAM—ADDITIONAL COSPONSOR OF BILL

Mr. ANDERSON. Mr. President, on June 27, 1961, I introduced S. 2156, to expand and extend the saline water program being conducted by the Secretary of the Interior. Since the printing of the bill, the junior Senator from Oklahoma [Mr. MONRONEY] has advised me that he wishes to join in the sponsorship of this legislation. I therefore ask unanimous consent that when the bill is reprinted that the name of the junior Senator from Oklahoma [Mr. MONRONEY] be added as cosponsor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

## TRADE CHALLENGES FROM ABROAD—ADDITIONAL COSPONSOR OF BILL

Under authority of the order of the Senate of June 29, 1961, the name of

Mr. CASE, of South Dakota, was added as an additional cosponsor of the bill (S. 2176) to provide for the inclusion of certain producers and growers of raw materials as interested parties in escape clause proceedings under the Trade Agreements Extension Act of 1951, to make mandatory the recommendations of the U.S. Tariff Commission in such proceedings, and for other purposes, introduced by Mr. BRIDGES (for himself and other Senators) on June 29, 1961.

## NOTICE OF HEARING ON SENATE CONCURRENT RESOLUTION 14, SALUTING "UNCLE SAM" WILSON OF TROY, N.Y., AS THE PROGENITOR OF AMERICA'S NATIONAL SYMBOL OF "UNCLE SAM"—COMMITTEE MEETING DURING SENATE SESSION

Mr. DIRKSEN. Mr. President, on behalf of the Subcommittee on Federal Charters, Holidays, and Celebrations of the Committee on the Judiciary, I desire to announce that a public hearing has been scheduled for Tuesday, July 11, 1961, at 2:30 p.m., in room 2228 New Senate Office Building, on Senate Concurrent Resolution 14, saluting "Uncle Sam" Wilson of Troy, N.Y., as the progenitor of America's national symbol of "Uncle Sam."

At the indicated time and place persons interested in the hearing may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas [Mr. McCLELLAN], the Senator from New York [Mr. KEATING], and myself, as chairman.

Mr. President, I am informed that a very substantial delegation from New York will be in attendance at the hearing. It is only for that reason that I now ask unanimous consent that, notwithstanding the session of the Senate on Tuesday next, the subcommittee may be permitted to meet.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

## ANNOUNCEMENT OF HEARINGS TO BE CONDUCTED JULY 25 ON S. 1747

Mr. ANDERSON. Mr. President, on several occasions I have advised the Senate of the economic straits in which the U.S. lead-zinc industry finds itself because of excessive imports. The price of these two metals today, and for the past several months, is 11 and 11½ cents per pound respectively.

This industry has followed the Trade Agreements Act in seeking relief from the volume of imports which have depressed its market prices. On three different occasions, beginning in 1955, it appeared before the Tariff Commission and presented its case to prove its contention, namely that imports greatly in excess of our requirements were destroying that industry. On each of these occasions the Tariff Commission found with the petitioners, namely that the lead-zinc industry was being substantially injured by too great a volume of imports.



The Tariff Commission recommended action to the then President who declined to accept these recommendations which included increased duties on imports. Instead, a stockpile program was inaugurated, and barter of surplus agricultural products for foreign-held lead and zinc was established. These policies were at best temporary palliatives.

When, in 1957, the stockpile program was abandoned and lead and zinc were removed from the list of items eligible for barter, the lead-zinc markets, which had improved while these programs were in operation, immediately plummeted. Imports in greater volume than ever before poured into this country.

In an effort to aid this industry, which I consider vital to our security and national economy, I introduced, as you know, S. 1747, a bill to stabilize the mining of lead and zinc in the United States. This bill, among other things, would provide an increase in duty on lead-zinc imports. There has been much discussion and delay concerning the plight of the lead-zinc industry and little action. In an effort to change inaction to action, I wish to announce that the Interior and Insular Affairs Committee will hold a hearing July 25 on S. 1747. The hearing will be conducted in room 3110, New Senate Office Building, at 10 a.m., by the Subcommittee on Minerals, Materials, and Fuels, which is chaired by the junior Senator from Colorado [Mr. CARROLL] who is a cosponsor of the bill.

Mr. CARROLL. Mr. President, I am pleased to associate myself with the remarks of my distinguished colleague, the very able chairman of the Senate Interior Committee. Also, I want to say to him and to the Senate here today that I am looking forward to presiding over the hearings called for July 25, and I shall await with much anticipation the testimony of the officials of the Department of the Interior on this perplexing problem which has, up to now, eluded favorable solution.

As Senator ANDERSON has stated, these hearings will seek to change inaction to action. Let me trace this failure on the part of the executive branch to support a plan which would permit the lead and zinc industry to escape from the strangulation caused by excessive imports.

Senator ANDERSON has already referred to the repeated attempts to seek reasonable relief from excessive imports through the machinery provided for in the Trade Agreements Act. This machinery has failed the industry because the former President declined to accept the Tariff Commission's recommendations for reducing import quotas on four separate occasions.

My colleagues on the Senate Interior Committee and I have become convinced that the only road to assistance for the lead and zinc industry is legislative action.

In January of this year, the chairman of the House Interior Committee introduced a bill, H.R. 3416, which encompasses the concept of a subsidy to be paid to domestic producers, to be derived from a fund made up of revenue from an increased duty to be imposed on foreign imports. A companion bill was in-

troduced in the Senate in April by Senator ANDERSON, chairman of the Senate Interior Committee. This bill is S. 1747. I joined with him in sponsoring this bill, as did Senators BENNETT, METCALF, and MOSS.

On March 9 and 16 the House Interior Committee held hearings on the overall problems facing the domestic mining industry. It was not considered appropriate at that time to hold hearings specifically on H.R. 3416 or H.R. 84, a bill to provide subsidies for the small producers, because the Department of the Interior had not submitted a departmental report on these bills. Pertinent and earnest testimony was received from representatives of all aspects of the lead and zinc industry attesting to the serious plight of the industry.

On May 4 and 5 the Senate Interior Committee held similar exploratory hearings and again heard representatives of the entire industry describe the hopelessness of the situation. As of that time, the executive branch still had not furnished the requested reports on this proposed legislation.

In response to entreaties from the two committees and spokesmen for the industry, the administration promised to formulate a policy on domestic mining. The first part of June was given as the target date for announcing this policy.

On June 16, although no official word had been received by the committees, the House Interior Committee announced that public hearings would be held on H.R. 84, introduced by that staunch champion of domestic mining, Congressman EDMONDSON of Oklahoma. This bill is limited to assistance to the small, independent producer, but it was hoped that the occasion of this hearing would bring forth from the administration some hint, at least, of what policy would be established with respect to mining. Unfortunately, the invited officials from the Department of the Interior did not appear to testify. The Department officials explained that they had not had sufficient time to formulate the promised policy.

Mr. President, about this time the Interior Department offered a new proposal for stockpiling lead and zinc and for financing the purchase of the metals for stockpiling by selling surplus farm products to foreign countries. This proposal was first revealed in an informal meeting held in the White House. Unfortunately, the Senate Interior Committee was not officially represented at this meeting. At this point in the RECORD I would like to insert an Associated Press account of the administration's surprise proposal.

There being no objection, the account was ordered to be printed in the RECORD, as follows:

[From the Denver Post, June 24, 1961]

**JFK PROPOSES STOCKPILE PLAN FOR LEAD, ZINC**  
WASHINGTON, June 24.—The United States soon may begin stockpiling lead and zinc in a move to wipe out the price-depressing surplus hurting the domestic lead and zinc industry.

A White House spokesman proposed this Friday among several plans to relieve the depressed mining industry.

Myer Feldman, Deputy Special Counsel for the President, told Members of Congress from nine mining States the White House is considering a plan to use dollars obtained from foreign sale of American farm surpluses to purchase domestic lead and zinc.

Representative Ed EDMONDSON, Democrat, of Oklahoma, said Feldman stressed the Federal purchase plan as a means of disposing of some \$60 million worth of lead and zinc now in the hands of producers and smelters. This is equivalent to about 1 year's production.

Other proposals under consideration include permitting a higher silver price, which would help lead and zinc mines indirectly, setting up a task force to draft a redevelopment program for depressed mining areas, and a continuing study of the industry and its problems to search for other solutions to the ailments of lead-zinc producers.

#### DOLLARS FOR FOOD

EDMONDSON noted that under the proposed plan the Government would have to get dollars in exchange for foodstuffs sent abroad, in order to pay cash to the domestic mines.

This, he said, might involve lowering the price at which farm products are sold abroad, to induce the foreign purchasers to pay in dollars instead of their own currencies.

The net effect in the United States, EDMONDSON said, would be to stockpile metal instead of farm commodities—with a substantial saving in warehousing costs.

He said the group of lawmakers would "think about it," and indicated that industry opinion was divided on whether this or some other plan should be adopted.

An administration official emphasized that the scheme was "highly tentative."

Also tentative, administration sources said, was a second proposal offered for these lawmakers' consideration—permitting a rise in the price of silver. This would help the lead and zinc mining firms indirectly, since silver normally is found in formations containing lead, zinc, and some other metals.

A third proposal was that a task force be set up to study the depressed mining areas with a view to launching a redevelopment program under the newly adopted law providing Federal grants and loans to areas of chronic unemployment.

The fourth suggestion was that a continuing study of the industry and its problems be undertaken, to search for other solutions to the ailments of the lead-zinc producer.

EDMONDSON said Feldman was of the opinion that the lead-zinc purchase program could be undertaken without new legislation, but that some of the Congress Members disagreed.

#### PRICE ESTIMATE ASKED

"We asked the White House to prepare a memorandum on the proposed plan and on the estimated prices it would expect to pay on the domestic metals," EDMONDSON said.

"That is important, because if the plan does not operate to raise domestic prices, it won't help the domestic industry at all."

Some Members of the congressional group also proposed higher tariffs on foreign metals entering the country quota limitations on imports, and various types of subsidies, EDMONDSON said.

In addition to EDMONDSON, the delegation which visited the White House included Representatives WALTER BARING, Democrat, of Nevada; HOWARD BAKER, Republican, of Tennessee; JOSEPH MONTOYA, Democrat, of New Mexico; WALTER L. McVEY, Republican, of Kansas; ARNOLD OLSEN, Democrat, of Montana; GRACIE FOST, Democrat, of Idaho; RALPH HARDING, Democrat, of Idaho; VERNON W. THOMSON, Republican, of Wisconsin; RICHARD ICHORD, Democrat, of Missouri. Standins for several Senators were on hand, including spokesmen for A. S. (MIKE) MONRONEY, Democrat, of Oklahoma; LEE METCALF,







# Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF  
BUDGET AND FINANCE

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**HIGHLIGHTS:** Senate committee voted to report Delaware River Basin Compact bill. Rep. May urged increased production and stockpiling of sugar. Rep. Findley criticized food distribution program.

## SENATE

- 1. WATER RESOURCES.** The Judiciary Committee voted to report (but did not actually report) H. J. Res. 225, granting the consent of Congress to the Delaware River Basin Compact. p. D779
- 2. TRANSPORTATION.** The Commerce Committee voted to report (but did not actually report with amendment H. R. 6775, to provide for the operation of steamship conferences. p. D778  
The Commerce Committee reported without amendment H. R. 2429, to prohibit the destruction of, or injury to, any freight or express moving in interstate or foreign commerce (S. Rept. 827). p. 16193
- 3. PERSONNEL.** The Commerce Committee reported without amendment S. 2236, to authorize the Secretary of Commerce to employ aliens in a scientific or technical capacity (S. Rept. 825). p. 16193
- 4. ADMINISTRATIVE ORDERS.** The Judiciary Committee voted to report (but did not actually report) H. R. 5656, to provide reasonable notice of applications to



the U. S. courts of appeals for interlocutory relief against the orders of certain administrative agencies. p. D779

5. STATE-JUSTICE APPROPRIATION BILL, 1962. Continued debate on an amendment to this bill, H. R. 7371, to provide for a 2-year extension of the Civil Rights Commission. pp. 16206-13, 16215-8, 16227-9, 16242-61
6. VIRGIN ISLANDS. Received from GAO "a report on the review of certain activities of the government of the Virgin Islands of the United States, fiscal year 1960." p. 16192
7. FARM LABOR. Sen. Keating submitted amendments intended to be proposed to H. R. 2010, to amend and extend the Mexican farm labor program. p. 16193
8. PEACE CORPS. Sen. Humphrey inserted the text of President Kennedy's remarks to Peace Corps volunteers departing for Ghana and Tanganyika in which he stressed the importance of the Peace Corps program. pp. 16236-7
9. ELECTRIFICATION. Sen. Gruening discussed the importance of developing the power resources of Alaska and inserted an article, "The Sitka Blue Lake Hydroelectric Story." pp. 16218-9
10. WET LANDS; WATERFOWL. Sen. Humphrey commended the passage by the Senate of H. R. 7391, to authorize appropriations for a 5-year period of not to exceed \$50 million for the acquisition of wet lands and other essential waterfowl habitat, as an important step in the preservation of our waterfowl population. p. 16237
11. SALINE WATER. Passed over, at the request of Sen. Hart, S. 2156, to expand and extend the saline water conversion program. p. 16204

#### HOUSE

12. SMALL BUSINESS. Passed without amendment H. R. 8922, to increase by \$20 million the amount available for regular business loans under the Small Business Act. p. 16284
13. PERSONNEL. The Armed Services Committee voted to report (but did not actually report) with amendments H. R. 8765, to amend and clarify the reemployment provisions of the Universal Military Training and Service Act. p. D781  
Rep. Jensen discussed his bill, H. R. 8607, and several others, to reduce nonessential Federal personnel by attrition until a 10 percent reduction has been achieved. p. 16303
14. EDUCATION. The Education and Labor Committee reported with amendments H. R. 8890, to amend Public Law 815 and Public Law 874, 81st Congress, so as to extend provisions for Federal assistance for schools in federally impacted areas for an additional year and to extend for one year the student loan program of title II of the National Defense Education Act of 1958 (H. Rept. 1063), and (without amendment) H. R. 8900, to authorize assistance to public and other nonprofit institutions of higher education in financing the construction, rehabilitation, or improvement of needed academic and related facilities, and to authorize financial assistance for undergraduate study in such institutions (H. Rept. 1064). p. 16333  
Rep. Martin said, "I hope that the House will reject both of these pieces of legislation because of the manner in which they have been presented to us." p. 16325







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**HIGHLIGHTS:** Both Houses agreed to conference report on foreign aid authorization bill. House subcommittee voted to report wheat bills. Several Representatives discussed sugar legislation. Senate passed saline water bill. Senate committees reported bills to: Consent to Delaware River Basin Compact. Provide for operation of steamship conferences.

## SENATE

- 1. FOREIGN AID.** Both Houses agreed to (by votes of 69 to 24 in the Senate and 260 to 132 in the House) the conference report on S. 1983, the foreign aid authorization bill. This bill will now be sent to the President. See Digest 151 for items of interest. pp. 16566-85, 16588-605, 16717-27
- 2. SALINE WATER.** Passed with amendments H. R. 7916, to extend and expand the saline water conversion program by authorizing the appropriation of \$100 million for the program for fiscal years 1962 to 1971 (pp. 16607-28). Agreed to an amendment by Sen. Monroney (for himself and Sens. Kerr and Gore) authorizing the appropriation of \$100 million (rather than \$75 million as reported out of committee) for the program during the ten-year period (pp. 16608-16). Consideration of a similar bill, S. 2156, was indefinitely postponed (p. 16628).
- 3. WATER RESOURCES.** The Judiciary Committee reported with amendment H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin Compact (S. Rept. 854). p. 16538



4. TRANSPORTATION. The Commerce Committee reported with amendment H. R. 6775, to amend the Shipping Act of 1916 so as to provide for the operation of steamship conferences (S. Rept. 860). p. 16655
5. CIVIL DEFENSE. The Armed Services Committee reported without amendment H. R. 8383, to amend the Federal Civil Defense Act of 1950 to ratify retroactive financial contributions made to States for civil defense purposes (S. Rept. 846), and H. R. 8406, to change the name of the Office of Civil and Defense Mobilization to the Office of Emergency Planning (S. Rept. 847). p. 16538
6. FARM LABOR. Sen. Williams, N. J., inserted and commended articles favoring Federal aid to provide improved educational facilities and health services for migratory farm workers and their families. pp. 16544-6
7. LEGISLATIVE PROGRAM. Sen. Mansfield announced that the calendar will be called today, Sept. 1. pp. 16651-2

#### HOUSE

8. WHEAT. The Subcommittee on Wheat of the Agriculture Committee voted to report to the full committee H. R. 8842, to amend the Agricultural Act of 1961 so as to permit a wheat producer to withdraw from his stored excess the amount of wheat by which he fails to make his normal production on the reduced acreage allotment, less the acres voluntarily retired below the allotment. p. D794
9. APPROPRIATIONS. Conferees were appointed on H. R. 7371, the State-Justice appropriation bill for 1962. Senate conferees have already been appointed. p. 16659  
The Appropriations Committee was granted until midnight Fri., to file a report on the foreign aid appropriation bill for 1962. p. 16659
10. EDUCATIONAL EXCHANGES. The Foreign Affairs Committee reported with amendments H. R. 8666, to provide for the improvement and strengthening of the international relations of the United States by promoting better mutual understanding among the peoples of the world through educational and cultural exchanges (H. Rept. 1094). p. 16750
11. ATOMIC ENERGY. Received the conference report on H. R. 7576, the atomic energy authorization bill (H. Rept. 1101). (pp. 16728-32) This bill includes authorizations for reactor development, biology and medicine, and the cooperative power reactor demonstration program.
12. PURCHASING. The Subcommittee No. 2 of the Judiciary Committee voted to report to the full committee H. R. 8741, to authorize any Federal agency to waive performance and payment bonds. p. D795
13. TRANSPORTATION. The Interstate and Foreign Commerce Committee reported with amendments S. 320, to amend the Interstate Commerce Act so as to permit State commissions to grant the right to motor common carriers operating within a single State to engage in interstate or foreign operations within the boundaries of the State in which intrastate authority is being simultaneously authorized, and to authorize ICC to issue certificates of registration to existing carriers engaged in interstate operations under part II of the Act (H. Rept. 1090). p. 16750  
The Merchant Marine and Fisheries Committee reported with amendments H. R. 2488, to amend the Shipping Act of 1916 so as to provide for licensing independent ocean freight forwarders (H. Rept. 1096). p. 16750

## DELAWARE RIVER BASIN COMPACT

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AUGUST 31, 1961.—Ordered to be printed

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Mr. Eastland, from the Committee on the Judiciary, submitted the following

### R E P O R T

[To accompany H. J. Res. 225]

The Committee on the Judiciary, to which was referred the resolution (H.J. Res. 225) to grant the consent of Congress to the Delaware River Basin compact and to enter into such compact on behalf of the United States, and for related purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

#### PURPOSE

The twofold purpose of this legislation, as amended is (1) to grant the consent of Congress to an interstate-Federal compact that will create a regional governmental commission to administer comprehensively the water resources of the Delaware River Basin and (2) to set forth the terms that will govern the nature and extent of Federal participation in projects envisioned by the compact.

Parties to the compact are the Federal Government and the States of Pennsylvania, New York, New Jersey and Delaware. The compact commission will consist of five persons—a Federal representative appointed by the President of the United States and the four State Governors. This commission will be charged with the adoption and operation of a single comprehensive plan for the immediate and long-range development and uses of the water resources of the Delaware. The plan is to be a framework within which Federal agencies may operate, within which States may operate, within which private enterprise may operate—each fully within the present scope of its powers.



## AMENDMENT

Beginning on page 69, line 11, strike all of part II down to and including line 23 on page 75, and insert in lieu thereof the following:

## PART II

## ARTICLE 15

## RESERVATIONS

15.1 In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

(a) No provision of Section 3.7 of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the Basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the Compact; or to impose any charges with respect to commercial navigation within the Basin, jurisdiction over which is reserved to the Federal Government: *Provided*, That this paragraph shall be applicable to the extent not inconsistent with Section 1.4 of this Compact.

(b) Nothing contained in the Compact shall be deemed to restrict the executive powers of the President in the event of a national emergency.

(c) Notwithstanding the provisions of Article 2, section 2.2 of the Compact, the member of the commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President.

(d) Nothing contained in the Compact shall be construed as impairing or in any manner affecting the applicability to all Federal funds budgeted and appropriated for use by the Commission, of such authority over budgetary and appropriation matters as the President and Congress may have with respect to agencies in the Executive Branch of the Federal Government.

(e) Except to the same extent that state bonds are or may continue to be free or exempt from Federal taxation under the internal revenue laws of the United States, nothing contained in the Compact shall be construed as freeing or exempting from internal revenue taxation in any manner whatsoever any bonds issued by the Commission, their transfer, or the income therefrom (including any profits made on the sale thereon).

(f) Nothing contained in the Compact shall be construed to obligate the United States legally or morally to pay the principal or interest on any bonds issued by the Delaware River Basin Commission.

(g) Notwithstanding the provisions of section 11.5 or any other provision of the Compact, the furnishing of technical services to the Commission by agencies of the executive branch of the Government of the United States is pledged

only to the extent that the respective agencies shall from time to time agree thereto or to the extent that the President may from time to time direct such agencies to perform such services for the Commission. Nothing in the Compact shall be deemed to require the United States to furnish administrative services or facilities for carrying out functions of the Commission except to the extent that the President may direct.

(h) All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are undertaken by the Commission or are financially assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the locality so determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in any workweek, as the case may be. A provision stating the minimum wages thus determined and the requirement that overtime be paid as above provided shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project. The Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards specified in this provision, the supervisory, investigatory and other authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

(i) Contracts for the manufacture or furnishing of materials, supplies articles and equipment with the Commission which are in excess of \$10,000 shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.).

(j) Notwithstanding any other provision of this Act, nothing contained in this Act or in the Compact shall be construed as superseding or limiting the functions, under any other law, of the Secretary of Health, Education, and Welfare or of any other officer or agency of the United States, relating to water pollution: *Provided*, That the exercise of such functions shall not limit the authority of the Commission to control, prevent, or abate water pollution.

(K) The provisions of section 8.4 of Article 8 of the Compact shall not be construed to apply to facilities operated pursuant to any other Federal law.

(l) For purposes of the Act of June 25, 1948, 62 Stat. 982, as amended (Title 28, U.S. Code, chapter 171, and sections 1346(b) and 240(b)) and the Act of March 3, 1887, 24 Stat. 505, as amended (Title 28, U.S. Code, sections 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412, 2501), and the Act of June 11, 1946, 60 Stat. 237, as amended (Title 5, U.S. Code, sections 1001 and 1011, Title 50 App. U.S. Code,

section 1900), the Commission shall not be considered a Federal agency.

(m) The officers and employees of the Commission (other than the United States member, alternate United States member, and advisors, and personnel employed by the United States member under direct Federal appropriation) shall not be deemed to be, for any purpose, officers or employees of the United States or to become entitled at any time by reason of employment by the Commission to any compensation or benefit payable or made available by the United States solely and directly to its officers or employees.

(n) Neither the Compact nor this Act shall be deemed to enlarge the authority of any Federal agency other than the Commission to participate in or to provide funds for projects or activities in the Delaware River Basin.

(o) The United States district courts shall have original jurisdiction of all cases or controversies arising under the Compact, and this Act and any ease or controversy so arising initiated in a State Court shall be removable to the appropriate United States district court in the manner provided by § 1446, Title 28 U.S.C. Nothing contained in the Compact or elsewhere in this Act shall be construed as a waiver by the United States of its immunity from suit.

(p) The right to alter, amend, or repeal this Act is hereby expressly reserved. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by the Delaware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee.

(q) The provisions of section 2.4 and 2.6 of Article 2 of the Compact notwithstanding, the member and alternate member appointed by the President and advisor there referred to may be paid compensation by the United States, such compensation to be fixed by the President at the rates which he shall deem to prevail in respect to comparable officers in the executive branch.

(r) 1. Nothing contained in this Act or in the Compact shall impair or affect the constitutional authority of the United States or any of its powers, rights, functions, or jurisdiction under other existing or future legislation in and over the area or waters which are the subject of the Compact including projects of the Commission: *Provided*, That whenever a comprehensive plan, or any part or revision thereof, has been adopted with the concurrence of the member appointed by the President, the exercise of any powers conferred by law on any officer, agency or instrumentality of the United States with regard to water and related land resources in the Delaware River Basin shall not substantially conflict with any such portion of such comprehensive plan and the provisions of Section 3.8 and Article 11 of the Compact shall be applicable to the extent necessary to avoid such substantial conflict: *Provided further*, That whenever the President shall find and determine that the national interest so requires, he may suspend, modify or delete any provision of the comprehensive plan to the extent that it affects the ex-



ercise of any powers, rights, functions, or jurisdiction conferred by law on any officer, agency or instrumentality of the United States other than the Commission. Such action shall be taken by executive order in which such finding and determination shall be set forth.

2. For the purposes of paragraph 1 hereof, concurrence by the member appointed by the President shall be presumed unless within 60 days after notice to him of adoption of the comprehensive plan, or any part or revision thereof, he shall file with the Commission notice of his nonconcurrence. Each concurrence of the member appointed by the President in the adoption of the comprehensive plan or any part or revision thereof may be withdrawn by notice filed with the Commission at any time between the first and sixtieth day of the sixth year after the initial adoption of the comprehensive plan and of every sixth year thereafter.

(s) In the event that any phrase, clause, sentence or provision of Section 1.4 of Article 1 of the Compact, is declared to be unconstitutional under the constitution of any of the signatory parties, or the applicability thereof to any signatory party, agency or person is held invalid by a court of last resort of competent jurisdiction, the United States shall cease to be a party to the Compact, except to the extent that the President deems remaining a party necessary and proper to protect the national interest, and shall cease to be bound by the terms thereof.

(t) All Acts or parts of Acts inconsistent with the provisions of this Act are hereby amended for the purpose of this Act to the extent necessary to carry out the provisions of this Act: *Provided, however,* That no act of the Commission shall have the effect of repealing, modifying or amending any Federal law.

#### EFFECTUATION

15.2 (a) The President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the Compact and the initial organization and operation of the Commission thereunder.

(b) Executive departments and other agencies of the executive branch of the Federal Government shall cooperate with and furnish appropriate assistance to the United States member. Such assistance shall include the furnishing of services and facilities and may include the detailing of personnel to the United States member. Appropriations are hereby authorized as necessary for the carrying out of the functions of the United States member, including appropriations for the employment of personnel by the United States member.

15.3 Effective Date: This Act shall take effect immediately.

#### PURPOSE OF AMENDMENT

As noted in House Report No. 310 on House Joint Resolution 225, the House Judiciary Committee did not have formal reports from any of the Federal agencies when the legislation was reported by that

committee, nor had any agency reports been received when the bill was acted on by the House and subsequently referred to this committee. Substantially all of part II of the bill was added by the House committee. It is understood, however, that the committee had informal advice as to the viewpoints of the several Federal agencies regarding the conditions that should govern participation in the compact by the Federal Government.

Since that time, under date of August 15, 1961, Senator James O. Eastland, chairman of the Senate Committee on the Judiciary, received a communication from the Secretary of the Interior stating:

In order to give your committee the benefit of the executive agencies' position on the bill before the end of the session, this Department has been authorized to make its report on behalf of all Federal executive agencies. The Federal executive agencies would not object to the enactment of House Joint Resolution 225 with the amendments recommended in this report.

The Secretary further stated that:

\* \* \* Federal representatives have met over the past 4 months with representatives of the four State Governors in an attempt to formulate mutually acceptable conditions which could be recommended to the Congress as a basis for Federal participation and enactment of consent legislation.

Understanding that the proposed amendment represents agreement, with one exception, as to what is necessary in order to provide minimum protection of Federal interests, the committee has seen fit to accept the benefit of the intensive study given this complex matter, and, accordingly, has amended the bill as recommended, excepting the proposal to apply the preference clause in connection with the power dispositions by the Delaware River Basin Commission. Further discussion of this matter appears in the body of this report.

An entirely new part II has been substituted by the committee as a matter of technical convenience even though a number of the reservations in the House-passed bill remain unchanged in the new version. Some reservations have been changed only in part while others are new additions. There follows a statement of purpose with respect to each of the reservations or conditions that will govern Federal participation in the compact. For convenience in relating the purpose of the amendment to the amendment itself, the text of each portion of the substitute amendment is reprinted in conjunction with the explanations furnished in the cited letter of the Secretary of the Interior on behalf of all affected Federal agencies.

"15.1 In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

"(a) No provision of Section 3.7 of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the Basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the Compact; or to impose any charges with respect to commercial navigation

within the Basin, jurisdiction over which is reserved to the Federal Government: *Provided*, That this paragraph shall be applicable to the extent not inconsistent with Section 1.4 of this Compact.”

This reservation is the same as the House-passed version.

The purpose of this amendment is merely to clarify the intent of section 3.7 of the compact.

“(b) Nothing contained in the Compact shall be deemed to restrict the executive powers of the President in the event of a national emergency.”

This reservation is unchanged.

This amendment would assure that the President’s powers in the event of national emergency are not restricted by the compact.

“(c) Notwithstanding the provisions of Article 2, section 2.2 of the Compact, the member of the commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President.”

This reservation is unchanged.

Section 2.2 now provides that the member appointed by the President serves during the term of office of the President. This amendment would place the tenure of the Federal member on the same basis as that which prevails generally for principal executives in the Federal service.

“(d) Nothing contained in the Compact shall be construed as impairing or in any manner affecting the applicability to all Federal funds budgeted and appropriated for use by the Commission, of such authority over budgetary and appropriation matters as the President and Congress may have with respect to agencies in the Executive Branch of the Federal Government.”

This reservation is unchanged.

This amendment would assure that no Federal funds are made available to the Commission unless they have been budgeted and appropriated in accordance with general law and standard Federal procedures.

“(e) Except to the same extent that state bonds are or may continue to be free or exempt from Federal taxation under the internal revenue laws of the United States, nothing contained in the Compact shall be construed as freeing or exempting from internal revenue taxation in any manner whatsoever any bonds issued by the Commission, their transfer, or the income therefrom (including any profits made on the sale thereon).”

This revises similar provision of the House-passed bill.

Section 12.8 of the Compact grants a tax exemption for bonds of the Commission and interest thereon for the life of the Compact. This amendment would place the Commission bonds on a par with all other state bonds as respects Federal taxation.

“(f) Nothing contained in the Compact shall be construed to obligate the United States legally or morally to pay the principal or interest on any bonds issued by the Delaware River Basin Commission.”



This is a new provision.

Section 12.20 of the compact already states that the parties will provide only such capital funds as are authorized by their respective statutes. This amendment would merely assure that no legal or moral obligation to pay principal or interest on bonds could be inferred from other language of the compact.

“(g) Notwithstanding the provisions of section 11.5 or any other provision of the Compact, the furnishing of technical services to the Commission by agencies of the executive branch of the Government of the United States is pledged only to the extent that the respective agencies shall from time to time agree thereto or to the extent that the President may from time to time direct such agencies to perform such services for the Commission. Nothing in the Compact shall be deemed to require the United States to furnish administrative services or facilities for carrying out functions of the Commission except to the extent that the President may direct.”

This is a new provision.

Section 11.5 of the compact would pledge each signatory party to provide technical services (within the limits of available appropriations) to the Commission. This amendment would assure retention by the President and respective Federal agencies of control over the furnishing of such services, and would prevent interpretation of the compact to require the furnishing of administrative services by Federal agencies.

“(h) All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are undertaken by the Commission or are financially assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the locality so determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in any workweek, as the case may be. A provision stating the minimum wages thus determined and the requirement that overtime be paid as above provided shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project. The Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards specified in this provision, the supervisory, investigatory and other authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).”

This is a revision of former paragraph (h).

Since the Commission would be a Federal instrumentality, this amendment would apply Federal labor standards to its contracting operations.

"(i) Contracts for the manufacture or furnishing of materials, supplies, articles and equipment with the Commission which are in excess of \$10,000 shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq)."

This provision was contained in former paragraph (h).

This amendment is similar in purpose to that of paragraph (h). The Walsh-Healey Act provides for labor standards in connection with supply contracts.

"(j) Notwithstanding any other provision of this Act, nothing contained in this Act or in the Compact shall be construed as superseding or limiting the functions, under any other law, of the Secretary of Health, Education, and Welfare or of any other officer or agency of the United States, relating to water pollution: *Provided*, That the exercise of such functions shall not limit the authority of the Commission to control, prevent, or abate water pollution."

The Secretary of Health, Education, and Welfare is named here instead of the Surgeon General of the United States, as was provided in former paragraph (j).

The interaction of article 5 relating to water pollution and the repealer clause of the compact with present Federal laws for abatement of pollution raised the possibility that Federal powers in this area might in some way be limited by the compact. This amendment would make certain that existing Federal authority to abate or assist in the abatement of water pollution would not be affected by the compact.

"(k) The provisions of section 8.4 of Article 8 of the Compact shall not be construed to apply to facilities operated pursuant to any other Federal law."

This provision is the same as former paragraph (i).

Section 8.4 of the compact would empower the Commission to adopt regulations for the award of private concession contracts in connection with recreation facilities. This amendment would prevent application of Commission regulations to concessions awarded in connection with the operation of recreation facilities by other Federal agencies.

"(l) For purposes of the Act of June 25, 1948, 62 Stat. 982, as amended (Title 28, U.S. Code, chapter 171, and sections 1346(b) and 240(b) and the Act of March 3, 1887, 24 Stat. 505, as amended (Title 28, U.S. Code, sections 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412, 2501), and the Act of June 11, 1946, 60 Stat. 237, as amended (Title 5, U.S. Code, sections 1001 and 1011, Title 50 App. U.S. Code, section 1900), the Commission shall not be considered a Federal agency."

This provision is unchanged.

Because the Commission would be a Federal agency, this amendment is necessary to exempt it from the Federal Tort Claims Act, Tucker Act, and Administrative Procedures Act.

“(m) The officers and employees of the Commission (other than the United States member, alternate United States member, and advisors, and personnel employed by the United States member under direct Federal appropriation) shall not be deemed to be, for any purpose, officers or employees of the United States or to become entitled at any time by reason of employment by the Commission to any compensation or benefit payable or made available by the United States solely and directly to its officers or employees.”

This provision is unchanged.

The status of the Commission as a Federal agency also necessitates this amendment to provide that employees of the Commission are not deemed employees of the United States or entitled to any compensation or benefits available only to such employees.

“(n) Neither the Compact nor this Act shall be deemed to enlarge the authority of any Federal agency other than the Commission to participate in or to provide funds for projects or activities in the Delaware River Basin.”

This provision is unchanged.

This amendment is designed to assure that congressional and executive direction as to activities of Federal agencies in the basin is preserved.

“(o) The United States district courts shall have original jurisdiction of all cases or controversies arising under the Compact, and this Act and any case or controversy so arising initiated in a State Court shall be removable to the appropriate United States district court in the manner provided by § 1446, Title 28 U.S.C. Nothing contained in the Compact or elsewhere in this Act shall be construed as a waiver by the United States of its immunity from suit.”

This provision is unchanged.

The compact would allow court appeals from many decisions of the Commission. This amendment would establish Federal court jurisdiction over cases arising under the compact, and would assure that any such cases initiated in a State court could be removed to a Federal court.

“(p) The right to alter, amend, or repeal this Act is hereby expressly reserved. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by the Delaware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee.”

This provision is unchanged.

The first sentence of this amendment is a standard provision to enable Congress to alter, amend, or repeal this act at any time in the future. This sentence would also clarify any ambiguities in the language of section 1.4 of the compact. That section would allow Congress to modify the terms under which it may remain a party to the compact “by amendment, repeal or modification of any Federal statute



applicable thereto \* \* \* .” The proposed amendment would assure that this language is not construed to apply only to existing Federal statutes and allows Congress full latitude in future legislation. The second sentence of the amendment was suggested by the Judiciary Committee of the House of Representatives.

“(q) The provisions of section 2.4 and 2.6 of Article 2 of the Compact notwithstanding, the member and alternate member appointed by the President and advisor there referred to may be paid compensation by the United States, such compensation to be fixed by the President at the rates which he shall deem to prevail in respect to comparable officers in the executive branch.”

This provision is the same as former paragraph (r). (Former par. (q) appears here as par. 15.2(a).)

Sections 2.4 and 2.6 of the compact provide that the members of the Commission and their alternates and advisers shall serve without compensation. Since State Governors represent the States on the Commission and other State officers may serve as alternates and advisers, this provision may be appropriate for them, but in the event that the Federal member or his alternate or adviser holds no other Federal office obviously compensation would be required.

“(r) 1. Nothing contained in this Act or in the Compact shall impair or affect the constitutional authority of the United States or any of its powers, rights, functions, or jurisdiction under other existing or future legislation in and over the area or waters which are the subject of the Compact including projects of the Commission: *Provided*, That whenever a comprehensive plan, or any part or revision thereof, has been adopted with the concurrence of the member appointed by the President, the exercise of any powers conferred by law on any officer, agency or instrumentality of the United States with regard to water and related land resources in the Delaware River Basin shall not substantially conflict with any such portion of such comprehensive plan and the provisions of Section 3.8 and Article 11 of the Compact shall be applicable to the extent necessary to avoid such substantial conflict: *Provided further*, That whenever the President shall find and determine that the national interest so requires, he may suspend, modify or delete any provision of the comprehensive plan to the extent that it affects the exercise of any powers, rights, functions, or jurisdiction conferred by law on any officer, agency or instrumentality of the United States other than the Commission. Such action shall be taken by executive order in which such finding and determination shall be set forth.

“2. For the purposes of paragraph 1 hereof, concurrence by the member appointed by the President shall be presumed unless within 60 days after notice to him of adoption of the comprehensive plan, or any part or revision thereof, he shall file with the Commission notice of his nonconcurrence. Each concurrence of the member appointed by the President in the adoption of the comprehensive plan or any part or revision thereof may be withdrawn by notice filed with the

Commission at any time between the first and sixtieth day of the sixth year after the initial adoption of the comprehensive plan and of every sixth year thereafter."

This is an enlargement of similar provisions in former paragraph (u).

In the absence of this proposed amendment, the compact would exempt the Commission from much of the regulatory control of Federal agencies, and would require Commission approval for any Federal or federally licensed project developing the water or related land resources of the basin. This amendment would provide that the licensing and regulatory authorities of the Federal agencies and the powers of other Federal agencies to act with regard to projects in the basin would be preserved, except that where the Federal member concurred in the adoption of the comprehensive plan or any part or revisions thereof, the exercise of any of these powers by any Federal agency could not substantially conflict with that portion of the comprehensive plan. It would also provide that the Federal member could review his concurrences every 6 years. As a further safeguard the President would have the power at any time the national interest so required to suspend, modify, or delete any provision of the comprehensive plan insofar as it might affect the exercise of any Federal powers.

"(s) In the event that any phrase, clause, sentence or provision of Section 1.4 of Article 1 of the Compact, is declared to be unconstitutional under the constitution of any of the signatory parties, or the applicability thereof to any signatory party, agency or person is held invalid by a court of last resort of competent jurisdiction, the United States shall cease to be a party to the Compact, except to the extent that the President deems remaining a party necessary and proper to protect the national interest, and shall cease to be bound by the terms thereof."

This is a new provision. (Former paragraph (s) appears here as 15.2(b).)

All these amendments in this report are proposed to be made pursuant to the provision of section 1.4 of the compact. Ordinarily, if any party to an interstate compact conditions the terms of his participation, his consent is void unless these conditions are approved by the other parties. Here, however, in section 1.4, the other parties to this compact have agreed in advance to allow the Federal Government to condition the terms of its participation. If this section 1.4 were declared null and void, all Federal conditions would be void. In the absence of these conditions Federal interests would not be adequately protected. This amendment would assure that the Federal Government could withdraw in the event that section 1.4 was invalidated.

"(t) All Acts or parts of Acts inconsistent with the provisions of this Act are hereby amended for the purpose of this Act to the extent necessary to carry out the provisions of this Act: *Provided, however,* That no act of the Commission shall have the effect of repealing, modifying or amending any Federal law."

This is a new provision.

This amendment is similar to section 15.1 of the bill, but would add a proviso to assure that, in the exercise of the broad powers granted it by the compact, the Commission could not effect the repeal or modification of any Federal law. Also in the first line of the paragraph, the words "any provision" would be changed to "the provisions" to assure that any determination of inconsistency take into account the effect of these reservations upon the body of the compact.

"15.2(a) The President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the Compact and the initial organization and operation of the Commission thereunder."

This provision is the same as former paragraph (q).

"(b) Executive departments and other agencies of the executive branch of the Federal Government shall cooperate with and furnish appropriate assistance to the United States member. Such assistance shall include the furnishing of services and facilities and may include the detailing of personnel to the United States member. Appropriations are hereby authorized as necessary for the carrying out of the functions of the United States member, including appropriations for the employment of personnel by the United States member."

This provision is the same as former paragraph (s).

This amendment is recommended to insure full cooperation between the Federal member of the commission and the Federal agencies.

#### STATEMENT

The report of the House Committee on the Judiciary on House Joint Resolution 225 (Rept. No. 310) sets forth with clarity and accuracy the background history and the nature of the problems involved in the situation which has resulted in the proposed compact. Since this committee's information as to conditions in the Delaware River Basin is similar, this report adopts, in large part, the narrative of the House report.

The urgent needs of the area serviced by the Delaware River and its tributaries have long been a matter of common knowledge. They extend backward into the 1920's. The needs affect local, State, regional, and national planning and control. There are today some 19 Federal agencies that are involved with the problems of the Delaware Basin. In addition, there are 57 State and interstate departments, boards, and commissions, as well as some 250 public and private water companies, having some concern with the water resources of the Delaware. As a result, the Delaware problems are dealt with by a multiplicity of agencies—Federal, State, and local—with a confused splintering of responsibilities.

Efforts have been made over the years by the States and by the Federal Government to overcome this division of responsibilities without success. As early as the 1920's a tristate compact creating a commission to administer and coordinate the water functions of the Delaware was attempted. Again, in 1934, the Corps of Engineers, after a survey of the Delaware, suggested the establishment of an interstate agency so that there could be unified control in the planning,



design, and construction of water resource projects. Nothing further was done. In 1953 an interstate commission proposal known as Incodel was almost accepted but failed of adoption because one of the four States in the basin did not join in the agreement.

The absence of some centralized authority to coordinate and develop the water resources of the Delaware Basin caused a serious interstate conflict which in 1931 led to a Supreme Court decree granting 440 million gallons of water a day to New York City. This decree which has since been amended to allow the city to take 800 million gallons per day is under the continuing jurisdiction of the Supreme Court which has appointed a rivermaster to supervise the diversion of the Delaware waters and other matters. Under the terms of the decree any of the parties may go back to the Court to seek a modification of its diversion or release provisions.

In 1955, in another attempt to settle these longstanding problems, the Governors of Pennsylvania, New York, New Jersey, and Delaware, as well as the mayors of New York City and Philadelphia, established the Delaware River Basin Advisory Committee to review the water resources of the basin and adjacent areas. This latter committee, as a result of extensive study, suggested that a central agency be created to give an integrated, unified administration to the basin's water resources. This recommendation is the basis for the proposed compact.

Meanwhile, in 1956, shortly after Hurricane Diane caused inestimable damage through much of the Delaware Basin, the Congress directed the U.S. Army Corps of Engineers to conduct an extensive 3-year, \$2 million physical survey of the basin area. The primary purpose of this study was to evolve a comprehensive plan for the development and administration of the basin's resources. If enacted into law, the commission setup in the compact would adopt the comprehensive plan being promulgated by the Army Corps of Engineers.

The compact, in addition, will provide a basis for settling, without recourse to lengthy and involved litigation, the longstanding disputes before the Supreme Court. The compact provides for waiver of the right to go back to the Supreme Court as to diversions and compensating releases. Further applications for diversions and releases will be decided by the new commission which, under the compact, must apply the Supreme Court's rules of equitable apportionment.

The waters of the Delaware, of course, respect only their own natural boundaries (the river basin). They do not respect manmade political boundaries. Yet the needs of the individual States, as well as that of the Federal Government, are functionally interrelated, and the uses to which the States and the Federal Government put the Delaware's waters are all interdependent. Unfortunately, because of State and political boundaries, the various governments in the basin are not organized to control effectively and develop the basin's water and related resources. State agencies are limited in their actions by State boundaries. Federal agencies as will be detailed later in this report, have only responsibility for certain aspects of water problems. Water resources planning, control, and development is a technical, complex, and expensive proposition and requires many years from the conception to the completion of a large project such as a dam, reservoir, or hydroelectric plant. There is now no agency to coordinate the many agencies interested in this planning and development for the whole basin.

Furthermore, the demands upon the water and related resources of the basin are mounting daily and will multiply in the years to come. The present basin population of 22 million is expected to increase to 30 million by 1980 and 42 million by 2010. Industrial growth is expected to double by 1980. The government employment, industry and economic development of the entire region, as well as the health, safety, and general welfare of its population, require that water resources facilities be ready and operative when needed.

It seems logical, therefore, to create a single agency which can cut across political boundary lines and which can coordinate the functions of Federal, State, and local governments and adopt unified solutions to river basin problems.

The proposed compact gives promise of meeting the requirements of this problem. It grants the consent of Congress not only to the compacting States to enter into this compact, but also it makes the Federal Government a participating partner. This Federal-State arrangement will enable the new compact commission to carry out in an integrated and unified fashion the duties and responsibilities necessary to obtain the maximum benefits of the Delaware's potentials.

The compact provides a number of controls over the proposed commission, so that the interests of the Federal Government as well as those of the States are protected and responsiveness and accountability by the new commission to the public will be assured.

#### WHY A FEDERAL-INTERSTATE COMPACT?

To appreciate the importance of a joint Federal-State agency, as compared with the all-Federal or the dual level approach, it is necessary to consider the modern objectives of river basin development in the Delaware in the light of specific water resources activities and present Federal-State relations:

(1) To begin with, the natural condition of the main stream and tributaries of the Delaware completely disregards political boundaries and the distribution of governmental authority and responsibilities; and, as noted earlier, there are 43 State agencies, 14 interstate agencies, and 19 Federal agencies exercising a multiplicity of powers and duties related to the water resources of the Delaware River Basin.

(2) Under present legislative authorizations, the Federal Government has assumed principal responsibility with respect to navigation, flood control, hydropower development, irrigation, and river basin surveys. At the same time, the States have primary responsibility for water supply, sewage disposal, drainage, fish and wildlife. These functions are by their nature interdependent with the Federal functions for the reason that they often represent alternative development, use, or control of water resources.

(3) Federal and State Governments overlap in electric power regulation, recreation, conservation, forestry, soil conservation, and, most recently, streamflow regulation. To the extent that Federal grants and aids are made available for these functions, the Federal Government tends to assume a dominant position, but there is a strong residual responsibility of the States which should be encouraged in the National as well as State interest.

(4) Under State law, private rights are governed and administered under the riparian rights doctrine. The States in the East are accustomed to applying and administering this law, but the very



nature of river basin development leaves these rights in part subject to the Federal legal system as well. It is obvious that water rights law must be a basic consideration in water resource planning and development. For this reason the two systems of legal rights can be most effectively adapted to conditions in the Delaware River Basin under a single administrative authority.

It is apparent from this brief summary of the objectives and activities which affect a multipurpose development of the Delaware that there is a vital need to coordinate the various activities of the many departments at the State and Federal levels if all of the various alternative demands upon the one river are to be reconciled, planned efficiently, and operated without conflict. Here again, a single basin agency is the obvious answer, since the basin is universally recognized as the proper unit for water resources administration.

Since President Truman's administration there have been at least five national commissions which have carefully examined the question of administrative organization for water resources development. Every one of them has indicated a need for a new form of cooperative instrument to be used by the Federal departments and the States jointly. For example:

"Because many of the important possibilities of stabilizing or further developing the opportunities for optimum use of water, mineral, and land resources transcend the boundaries and the legal jurisdiction of the States, it is inevitable that there be Federal *participation* with the people of the States and localities and their governments. Interstate compacts should lessen the degree of Federal concern, but *partnership* with the Federal Government in preparation and fulfillment of regional water and related land programs, in greater or lesser degree, must everywhere be expected \* \* \*. The legal jurisdiction of the United States over navigation and certain other water uses, \* \* \* make this necessary. Quite apart from these reasons, there is usually no other constant source of governmental leadership transcending State boundaries which can help the people of a multistate region review the full scope of their water resources problems and possibilities or find the funds that in many cases are necessary for the expensive multipurpose tasks that must be undertaken." (Report of the President's (Truman) Water Resources Policy Commission (1950).) [Emphasis supplied.]

"Our task force makes a listing of 25 principal Federal agencies having functions relating to water and its use or control according to their field of interest. The list amply illustrates the diffusion of authority among the agencies on water development, and the need for clarification and coordination.

"Conflicts also arise between States over proposed projects in the same river basin, which, of course, may involve the Federal Government. The major Federal agencies are separately engaged in many river drainage basins. There is constant conflict and rivalries between them. One result is that local interests play one Federal agency against another to secure the greatest benefits (report to the Congress by



the (Hoover) Commission on Organization of the Executive Branch of the Government (1955)).

"The committee recommends—

"(a) That future multipurpose basinwide development of water resources should be on a partnership basis between the Federal Government and the States.

"(b) That the States in general assume more leadership and responsibility in this field.

"(c) That direction and control be provided by balanced division of authority between the Federal Government and the States concerned (Report of the President's (Eisenhower) Commission on Intergovernmental Relations (1955)).

"The studies make it obvious that future needs in the field of water resources development will be so great that meeting them will require the combined efforts of Federal, State, and local governments and private enterprise, working together, with their efforts coordinated to a high degree." (Report of the Senate Select (Kerr) Committee on National Water Resources, January 1961.)

The conclusion seems inescapable: If the powers and functions of law, planning, administration, and finance for a single river basin are to be integrated properly, the solution lies in a single joint agency composed of the governmental bodies concerned.

#### PROGRAM EFFICIENCY

The establishment of a single agency to coordinate Federal interests in the Delaware River Basin is of as much importance as the joining together of the four States and the resultant coordination of their various State activities. In brief, there is one river, one basin, all water resources are functionally interrelated, and each use is dependent upon the other. Therefore, one comprehensive plan and one coordinating and integrating agency is essential for efficient development and operation.

Many of the problems of any large river can be most efficiently solved by applying development and control measures in combination. For example, land-use regulations combined with storage reservoirs can often produce a more efficient solution to the problem of flood damages than either measure taken alone. As another example, storage reservoirs and pollution control together can often lead to the most economic solution of the problem of water supply. In many instances some of the measures required can be exercised only under State power, while others are available only (or primarily) to the Federal Government. The combination of Federal and State powers within one basin agency will therefore mean that the agency can integrate all available powers and at least have the opportunity to produce the least cost solution to water problems. Such opportunities are not available to wholly Federal or wholly non-Federal agencies.

Recent studies of our national water resources have amply demonstrated the need for integrating the program activities of the many different Federal agencies concerned with river basin development.

In no realistic sense can an exclusively interstate basin agency plan for, or integrate, the activities of Federal agencies. The Federal Government can be controlled only by itself. Having the Federal Government as one of the primary parties to the compact is the best way to enable the basin agency to effectively coordinate and integrate the programs of the Federal agencies. Without integration, comprehensive development plans cannot be efficiently implemented. If the basin agency were to be non-Federal, it would mean that coordination and integration of Federal agency programs, both among themselves and with the programs that the basin agency itself would carry out, would rest solely on voluntary cooperation. The reports of both Hoover Commissions and the other national water resources study commissions show conclusively that voluntary cooperation has never yet worked in a satisfactory manner.

It is almost needless to add that the suggestion that Federal participation be limited to the appointment of a Federal member to sit on the basin commission would completely fail to achieve the purposes already described. Such a Federal member could at most provide consultation as to Federal agency policies. But it is not consultation that is now lacking: it is resolution of differences and decision of policy. In a single-purpose project this is difficult; in a multipurpose development of the Delaware River it has proved impracticable. With the multitude of agencies already authorized to act in the basin, the conditions call for a partnership effort in a partnership form to adopt and carry out a partnership of interest and program.

The proposed compact would carry out this purpose while fully safeguarding any and all supervening national interests and preserving the application within the basin of established national policies as set forth in existing statutes, subject only to the requirement that all function within the framework of a single comprehensive plan for the basin.

#### POWER OF FEDERAL GOVERNMENT TO WITHDRAW FROM CONTRACT

It has been demonstrated that the Federal Government would be very much a senior partner under the compact. This status is primarily the result of the constitutional limits of Federal participation; that is, that the Congress could not divest itself of authority and responsibility conferred by the Constitution in such fields as commerce and navigation. The compact draft expressly provides:

1.4 Powers of Congress; Withdrawal. Nothing in this compact shall be construed to relinquish the functions, powers or duties of the Congress of the United States with respect to the control of any navigable waters within the basin, nor shall any provision hereof be construed in derogation of any of the constitutional powers of the Congress to regulate commerce among the states and with foreign nations. The power and right of the Congress to withdraw the federal government as a party to this compact or to revise or modify the terms, conditions and provisions under which it may remain a party by amendment, repeal or modification of any federal statute applicable thereto is recognized by the signatory parties.



The Congress would also retain that domination which goes with control over the purse strings, since projects are left for future authorization. The basin agency would only have such powers as are delegated to it, and with respect to national policy, the Congress, by qualifying the terms and the conditions upon which the Federal Government would remain a partner, may at all times limit the activities of the basin agency to conform to national policy. The compact itself would make all of the basin agency's operation subject to audit by the Comptroller General. In addition, the right is reserved to the committees of Congress to require full disclosure, by the Delaware compact agency, of all information and data in the agency's files. All future amendments to the compact must be approved by Congress. The basin agency would thus be fully accountable to the Congress.

#### COMPACT'S RELATIONSHIP TO ESTABLISHED NATIONAL POLICIES

The proposed basin agency would operate within established national policies prescribed by the Congress. While the basin agency is necessarily delegated sufficient powers commensurate with the broad sweep of the problems of comprehensive and multipurpose development, as an agency of regional government it would be fully subject to the substantive requirements of all Federal laws relating to the Delaware River Basin, under the simple principle prescribed by the Constitution itself (art. VI) "that the Constitution, and the laws of the United States which shall be made in pursuance thereof; \* \* \* shall be the supreme law of the land; \* \* \*." There is nothing in the compact bill itself which would restrict the operation of any other Federal policy with respect to water and related natural resources. In fact, the only restriction on the Federal agencies themselves is that they operate within the framework of the comprehensive plan for the Delaware River Basin which would be developed by the basin agency as an instrumentality of the Federal Government as well as of the States.

Even were the language of the compact bill to be construed in any manner as to exempt the basin agency from continuing answerability to the Congress, any such provision would be totally ineffectual under the Constitution itself. Neither by compact nor by any other form of legislation can the Congress divest itself of the authority vested in the National Government by the commerce clause and other clauses of the Federal Constitution. On the other hand, the Congress may deem it advisable to require the exercise of some discretion under present or future national statutes, as exercised by the conventional departments within a coordinating framework provided by an agency specially constituted for the Delaware River Basin. This compact presents an opportunity to effectuate national policy through an administrative agency constituted in such manner as to resolve the complex intergovernmental relationships which are inherent in river basin development. It is thus clear that unless and until the Congress should otherwise provide by statute, national policy now established by acts of Congress would remain fully effective within the basin. Examples of such Federal laws are:

- (1) The general jurisdiction vested in the Corps of Engineers relating to Federal investigations and improvements of rivers, harbors, and other waterways (33 U.S.C. 540).



(2) The Flood Control Act of 1944 and similar acts (33 U.S.C. 701).

(3) Control and regulation of obstructions to navigation or to navigable capacity as vested in the Secretary of the Army and the Chief of Engineers by the General Bridge Act and similar statutes (33 U.S.C. 401, 403, 419, 433, 525).

(4) The jurisdiction of the Department of the Army with respect to Federal investigations and improvements of rivers for flood control, channel, and major drainage improvements (33 U.S.C. 701a, 701b, 708, 709).

(5) Operation of basin structures and facilities by the Corps of Engineers under the 1944 Flood Control Act and other general statutes (33 U.S.C. 709, 540) or by local agencies in accordance with regulations prescribed by the Secretary of the Army (33 U.S.C. 701c).

(6) The Federal Power Act licensing provisions, and its provisions for the marketing of surplus power by the Secretary of the Interior at rates approved by the Federal Power Commission and with preference to public bodies and cooperatives (16 U.S.C. 797e, 825s).

(7) The jurisdiction of the Federal Power Commission as prescribed by the Federal Power Act (16 U.S.C. 817 et seq., as construed in *United States ex rel. Chapman v. Federal Power Commission* (345 U.S. 153 (1953))).

(8) The authority of the U.S. Public Health Service with respect to pollution abatement in interstate waters, which is already required to be exercised in cooperation with other Federal agencies, with State water pollution control agencies and interstate agencies, and with the municipalities and industries involved (33 U.S.C. 466a).

(9) The functions of the Soil Conservation Service to make surveys and carry out preventive measures, and to carry out particular programs authorized by statute, which already provide for cooperation with other agencies (16 U.S.C. 590a; 33 U.S.C. 701a, 701b).

(10) The functions, powers, and duties of the Geological Survey, Weather Bureau, Fish and Wildlife Service, Bureau of Mines, National Park Service, Forest Service, and other Federal agencies will be not only preserved but required to carry out a comprehensive plan.

(11) The Walsh-Healey and Davis-Bacon Acts and other labor standards prescribed by Federal law.

### HYDROELECTRIC POWER

For the immediate purpose at hand—that of giving sanction to the agreement worked out among the compacting States and providing, at least generally, the terms of Federal participation—the committee feels that it is not desirable to become involved in a public versus private power controversy in an attempt to resolve at this time the question of including a provision for preference in the sale of power that may be developed under the auspices of the Delaware River Basin Commission. House Joint Resolution 225 is enabling legislation to give life to the compact and to provide for Federal participation but it is not project legislation, it does not provide for specific projects,

hydroelectric or otherwise. The committee feels that Federal policies respecting the disposition of power developed by Federal financing will be retained under existing Federal law. Therefore, the committee's attention has not been focused on operational matters but rather on the constitutional aspects involved and in the overall propriety of the compact and its impact in the delicate area of Federal-State relationship. It is noted that the power question and other operational matters of technical nature are being reviewed by the Senate Committee on Public Works, which has special competence in this field, in connection with S. 856, a similar bill pending before that committee.

Further, as noted in the agency report, the preference proposal is the only one on which there was failure of agreement among the State and Federal representatives assigned to resolve differences of opinion. The committee notes that the House Committee on the Judiciary, in reporting on House Joint Resolution 225, expressed a similar neutral view on the power question in the following language, to which this committee subscribes and which it adopts:

\* \* \* the committee is convinced that the existing preference clauses, such as that contained in the Flood Control Act of 1944 (sec. 5) governing projects financed with Federal funds, would continue to apply to any projects authorized under that act, unless the Congress were to specifically provide otherwise. By contrast, if the preference clause were to be written into the present compact bill, the Congress would be asking the four States which have no such policy to subscribe to it even as to projects which may be financed solely out of State funds. This is the place where national policy and State policy can easily be reconciled simply by leaving the compact draft neutral on the question, as it now is, and determining the preference question when specific projects are authorized in the future. At present we are writing a constitution for the basin agency; in the future when we write the legislation to authorize projects will be the time to deal with the preference question.

#### FINANCING

While the yearly current expenses of the agency will be apportioned among the signatory parties, it is to be noted that the compact does not (1) authorize any project and (2) does not commit the partners, including the Federal Government, to any particular expenditures. Each project would be separately authorized in the future and the financing of it would be part of the future authorization.

The compact agency may, of course, receive appropriations, grants, or loans from Federal and State Governments (sec. 14.1(a)(2)). In addition, it may borrow money and issue bonds to finance various projects, but it cannot pledge the credit of any of the signatory parties (secs. 12.5, 12.3, 12.1, 12.20(c)). While the compact agency is authorized to make reasonable charges for the use of facilities which it may own or operate, and for products and services rendered by such facilities (sec. 3.7), it does not appear, from the nature of the projects in the Corps of Engineers comprehensive plan, that the agency will have very much in the way of project revenue with which to provide



itself with a credit base. Capital financing will depend largely upon the willingness of the States and the Federal Government to make capital available for the particular project.

The compact agency will have a current expense budget and a capital budget. The current expense budget is to be apportioned among the signatory parties (of which the Federal Government is one) by unanimous vote of the agency's members; each signatory party, of course, reserving its usual budget review and approval of the amount so apportioned (sec. 13.3(b)). The capital budgets are to be negotiated by the agency representatives at such times as capital improvements are undertaken, and the sharing of capital costs among the signatory partners will be proportionate to the distribution of benefits from the proposed improvement. The commission may prepare standard formulas for this purpose (secs. 13.3(a), 12.20, 11.4), but nothing in these provisions imposes any mandatory obligations on any of the signatory parties (12.20).

### CONSTITUTIONAL ASPECTS

At various stages throughout the formulation of the compact and the determination of the conditions which would govern both the fact and the extent of Federal participation, concern has been voiced about the constitutionality of the Federal Government's role as an active, participating partner with the four compacting States. The constitutional aspects are, of course, of major concern to this committee. The committee has had the benefit of a scholarly review of the constitutionality of the proposed Delaware River Basin compact previously prepared for the Delaware River Basin Advisory Committee by Mr. Walter Gelhorn, of Columbia Law School, and Mr. Frank P. Grad, of Columbia University Legislative Drafting Research Fund. Because of the importance of constitutional considerations in this field, the committee believes the record should contain this opinion and, accordingly, has included the opinion as a part of this report.

At this point, the committee expresses the opinion that there can be little doubt that the Congress has the constitutional power to enter into a compact or contractual agreement with the States for the purpose of developing the water and other resources of the Delaware River. The Supreme Court has uniformly upheld contractual arrangements in the nature of compacts between the Federal Government and one or more of the States. As early as the 1800's the United States entered into an agreement with four States for the repair and maintenance of the Cumberland Road, which the United States had built (*Seawright v. Stokes*, 3 How. 151). The Court, in upholding the agreements, did so in the following significant terms:

The object of the compacts was to preserve the road for the purposes for which it had been made. The right of the several States to enter into these agreements will hardly be questioned by anyone \* \* \*. Neither do we see any just ground for questioning the power of Congress (p. 166).

More recently, the Supreme Court upheld an agreement between the United States and California whereby California ceded land to the United States for a national park, reserving to California the right to



tax persons and property on the land (*Collins v. Yosemite Park and Curry Company*, 304 U.S. 518 (1937)).

The Supreme Court itself has recognized the advantages of water resources development through the use of Federal-interstate compacts. In *West Virginia ex rel. Dyer v. Sims* (341 U.S. 22), which involved an interpretation of the Ohio River Valley Water Sanitation Compact, Mr. Justice Frankfurter, in noting that the compact was not only a supple device for dealing with the State interests confined within the region but also was a device for safeguarding the national interest, stated:

That it is also a means of safeguarding the national interest is well illustrated in the compact now under review. Not only was congressional consent required, as for all compacts; direct participation by the Federal Government was provided in the President's appointment of three members of the compact commission (p. 28).

Fears also have been expressed concerning the fact that the proposed Delaware compact contains a provision for a Federal representative on the commission, who would be a voting member. In answer, it need only be pointed out that there is not only (1) Federal statutory precedent for a Federal representative on a compact commission, but also (2) for a Federal representative who is a voting representative. On the Ohio Valley water sanitation compact (54 Stat. 752) there are three mandatory Federal representatives—all voting members. This compact commission is an operating, regulatory agency with power to adopt and enforce its regulations. On the Upper Colorado River Basin compact (63 Stat. 31) there is a Federal representative who also votes and is the presiding officer. There are three voting Federal representatives on the Potomac River Basin compact (54 Stat. 748.) In the Yellowstone River compact the Federal representative serves as a tie breaker. In addition there are at least 14 other interstate compact commissions on which Federal representatives may sit but do not vote (Commission on Organization of the Executive Branch (1954) p. 21).

While the above-mentioned compacts seem to be ample precedent for the constitutional validity of the power of Congress to make the Federal Government a participating member of an interstate-Federal compact, it may be argued that the above-cited compacts are to be distinguished from the Delaware compact in that the cited compacts have advisory powers only whereas the Delaware compact will be an operating commission which will actually operate facilities. In answer it need only be noted that the Ohio Valley water sanitation compact, cited above, is an operating, regulatory agency. In further answer, it should be noted that such an argument has nothing to do with the constitutional power of Congress to authorize a Federal representative with voting rights. Such power is already well established. The argument presents only a question of policy. The committee is convinced that there ought to be, as a matter of policy, a Federal representative with voting rights in order to insure greater Federal-State cooperation and coordination in the planning, development, and operation of the Delaware River Basin.

On the issue of delegation of congressional power, it is to be noted that the present bill enacting the proposed Delaware River compact, and creating an agency, the Delaware River Commission, to carry

out certain powers and duties, is no different from other Federal legislation regulating specified areas and creating new agencies to administer law. The fact that the new Delaware River Commission is in part a State instrumentality, as well as a Federal instrumentality, does no harm to the Federal power. There are many instances of the execution of Federal law and policy by State instrumentalities and officers. State prisons and personnel, for example, keep and discipline Federal prisoners (18 U.S.C. 4002). The Social Security Act furnishes other instances (42 U.S.C. 302, 421, 503, 602, 703, 713, 1202, 1352). The Federal control over social security administration is in part maintained by grants-in-aid for the support of State administrative agencies, conditioned upon their satisfying Federal standards concerning policies and methods. Other examples may be found in the conservation area (16 U.S.C. 590a-590g—soil conservation) (590r-590z—water conservation) (1001-1008—watershed protection and flood prevention). From the State level, there are three major Federal statutes requiring Federal agencies to be controlled by State water law: The Federal Reclamation Act of 1902, Federal Power Act of 1920, and the Watershed Protection and Preservation Act of 1954.

Thus, as a practical matter, the use of State personnel to carry out Federal law or policy is well accepted, particularly in the water resources and conservation field.

Finally, on the constitutional issue, section 14.21 of the compact has a savings clause which expressly provides that if any portion of the compact is found to be unconstitutional, the remainder of the compact shall remain valid.

#### SECTION ANALYSIS

The compact bill consists of two parts: Part 1 is the compact itself, which must be enacted in identical form by all of the compacting parties; and part 2, which is the nonconcurrent part setting forth various enabling matters which relate solely to the law of the enacting party, in this case the Congress.

The preamble sets forth the need and the background of the compact.

Article 1 is primarily a definition section which includes a description of the natural area of the river basin and other pertinent definitions. Section 1.3 sets forth various legislative findings, such as that—

the water resources of the basin are subject to the sovereign right and responsibility of the signatory parties, and it is the purpose of this compact to provide for a joint exercise of such powers of sovereignty in the common interests of the people of the region; and that such resources are functionally inter-related, and their uses are interdependent. A single administrative agency is therefore essential for effective and economical direction, supervision, and coordination of efforts and programs of Federal, State, and local governments and of private enterprise.

Section 1.4 specifically affirms the power of Congress with respect to navigable waters and includes as part of the compact itself the power and right of the Congress to withdraw the Federal Government as a party or to revise or modify the terms, conditions, and provisions under which it may remain a party to the compact.



Section 1.5 directs the basin agency to utilize and employ, so far as feasible and advantageous, the officers and agencies of the signatory parties, and section 11.5 reaffirms that such utilization must be within the limits of available appropriations and may be on a cost-reimbursement basis.

Section 1.6 establishes the duration of the compact at 100 years with provision for extensions for additional periods of 100 years and for termination by action of any of the signatory States taken between the 75th and 80th year of any such 100-year period.

Article 2 creates the Delaware River Basin Commission, which is both the governmental entity and the name of its governing body, as an agency and instrumentality of both the Federal Government and the States. The commission is to consist of the Governors of the signatory States ex officio and one commissioner to be appointed by the President of the United States to serve during the term of office of the President.

Section 2.5 provides that each commissioner shall have one vote, and section 2.4 provides that they shall serve without compensation. The respective commissioners are authorized to appointed alternates.

Article 3 sets forth the general powers and duties of the commission, to develop and effectuate plans, policies, and projects relating to the water resources of the basin.

Section 3.2 sets forth requirements, which are spelled out in greater detail in article 13 of the compact, for the formulation and adoption of (a) a comprehensive plan, (b) a water resources program based upon the comprehensive plan which would cover projects which should be undertaken by some public or private entity interested in the basin during a reasonably foreseeable period, and (c) an annual capital budget covering the projects that the commission itself intends to take up during the current year, together with an annual current expense budget for its operations.

Sections 3.3, 3.4, and 3.5 settle all outstanding issues as to water diversion rights among the signatory States. As to interstate diversions and allocations authorized prior to the compact, the parties agree to be governed by the provisions of the U.S. Supreme Court decree in *New Jersey v. New York* (347 U.S. 995 (1954)), and as to all future allocations among the States the basin agency or commission—

shall have power from time to time as need appear, in accordance with the doctrine of equitable apportionment, to allocate the waters of the basin to and among the States signatory to this compact and to and among their respective political subdivisions, and to impose conditions, obligations, and release requirements related thereto. \* \* \*

The signatory States waive their right for the duration of the compact to go back to the Supreme Court for modifications of the last cited decree under provisions of that decree which grant such a right.

Section 3.6 sets forth the general powers of the commission which may be used to carry out the purposes of the compact, including planning, construction, operation, research, data collection, and forecasting, ground water investigations, information and reports, negotiation of loans, grants and aids, etc.

Section 3.7 authorizes the commission to make charges for the use of facilities which it may own or operate and for products and services rendered by such facilities, exempt from any other public regula-



tion or control. It should be noted that no power is delegated to the commission to make any charge with respect to navigation or on account of any withdrawal of water from the river in its natural state.

Section 3.8 is a screening section which enables the commission to test proposed projects which have a substantial effect on the water resources of the basin so that any future projects will conform to the comprehensive plan, or at least would not substantially impair or conflict with the plan. Judicial review is provided with respect to determinations under this section.

Article 4 through 14 deal more specifically with the functions and operations of the commission. Article 4 authorizes the commission to engage in water supply projects, to provide for the storage and release of waters, and to provide stream regulation on a special assessment basis if and when there is special benefit, as distinguished from the general benefit, and the special benefit from such regulation is actually measurable.

Article 5 deals with pollution control. It empowers the commission to establish standards to control pollution and abate existing pollution and to enforce such standards subject to judicial review. The commission may also act as a complainant before established health departments and services of the signatory parties.

Article 6 deals with flood protection. It authorizes the commission to engage in works of flood damage reduction, and to prepare and adopt standards for flood plain zoning, the latter as a means of reducing the hazards to property owners as well as curtailing the need for public expenditures for flood control structures. The standards become effective upon their enactment by local governments exercising police power in the area.

Section 6.3 authorizes the acquisition of lands for flood control purposes and the posting of lands particularly subject to flood damage.

Article 7 deals generally with watershed management and authorizes the commission to promote sound practices of watershed management in the basin, including projects and facilities to retard runoff and to prevent soil erosion. Section 7.4 specifically directs that the commission shall cooperate with appropriate agencies of the signatory parties for the purposes of this article and shall not operate any project or facilities unless it has first found and determined that no other suitable unit or agency of government is available to do so.

Article 8 authorizes the commission to provide for the development of water-related public sports and recreational facilities. Under section 8.2 there is a similar cooperation requirement to that set forth above with respect to article 7.

Article 9 deals with hydroelectric power. The commission is authorized to develop hydroelectric power and hydroelectric energy in accordance with the comprehensive plan. It may provide transmission facilities only where such facilities are not otherwise available on reasonable terms for the purpose of wholesale marketing the power, and the compact specifically provides that nothing herein shall be construed to authorize the commission to engage in the business of direct sale to consumers. Under defined conditions, section 9.4 authorizes development contracts, and section 9.5 permits the commission to fix rates and charges for power which is produced by its facilities, provided that such shall be reasonable, nondiscriminatory, and just. The article neither provides for nor forecloses the use of

public power preference clauses in subsequent specific project authorizations.

Article 10 deals with withdrawals and diversions by private parties under conditions where a water shortage is threatened, or where the imbalance between demand and supply will impair or conflict with the requirements of the effectuation of the comprehensive plan. The article also provides machinery to deal with water emergencies, and for judicial review of all determinations of the commission under this article.

Article 11 sets forth the relationship between existing Federal agencies and existing State agencies to the new basin agency. It requires such existing agencies to cooperate in planning and to confine their activities within the framework of the comprehensive plan. Except for these limitations, each Federal agency otherwise authorized by law to plan, design, construct, operate, maintain any project or facility in or for the basin shall continue to have, exercise, and discharge such authority.

Section 11.3 recognizes that the basin agency has no taxing power, and each of the signatory parties reserves its sovereign rights of taxation as now existing. Section 11.4 requires the commission to establish uniform standards and procedures for the evaluation, determination of benefits, and cost allocations of the projects affecting the basin.

Article 12 deals with capital finance. It sets forth a complete system of revenue financing and provides that the commission shall have no power to pledge the credit of any signatory party, or of any county or municipality (sec. 12.3). It is recognized, of course, that the commission will be unable to enter the bond market unless and until it will establish a credit base to the extent of any revenue producing facilities it may operate. Section 12.20 provides that the signatory parties will provide capital funds with the understanding that—

nothing in this section shall be deemed to impose any mandatory obligations on any of the signatory parties other than such obligations as may be assumed by a signatory party in connection with specific project or facility.

Article 13 sets forth in detail the requirements of the comprehensive plan, water resources program, and annual current expense and capital budgets.

Article 14 contains general provisions which deal with the house-keeping functions of the Commission, authorize the adoption of necessary rules and regulations, cover the taxability and exemption of property and functions of the Commission. Section 14.14 of this article governs condemnation proceedings by the Commission and section 14.15 the conveyance of lands and relocation of public facilities. Section 14.17 provides a standard penal sanction for violation of regulations of the Commission and section 14.18 provides that the Commission shall be responsible for claims arising out of the negligent acts or omissions of its officers, agents, or employees only to the extent and subject to the procedures prescribed by law generally with respect to all officers, agents, and employees of the Government of the United States. Section 14.19 provides that—

nothing contained in this compact shall be construed as affecting or intending to affect or in any way to interfere with the



law of the respective signatory parties relating to riparian rights.

The compact would take effect, under the provisions of section 14.22, when enacted by all of the signatory parties, and provision is made for its signing and attestation in a prescribed form.

Part II of the bill is a statement of the various terms and reservation that will govern Federal participation in the compact. As noted earlier in this report, many of the provisions were also contained in the House-passed version of the bill, some are revisions and others are new provisions. Analysis of these provisions appears above under the heading "Purpose of Amendment."

Attached hereto are (1) report by the Secretary of the Interior on behalf of affected executive agencies, dated August 15, 1961, and (2) opinion on the constitutionality of the Delaware River Basin Compact by Mr. Walter Gelhorn and Mr. Frank P. Grad.

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., August 15, 1961.

HON. JAMES O. EASTLAND,  
*Chairman, Committee on the Judiciary,*  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR EASTLAND: This responds to your request for the views of this Department on House Joint Resolution 225, a bill to grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States and for related purposes.

In order to give your committee the benefit of the executive agencies' position on the bill before the end of the session, this Department has been authorized to make its report on behalf of all Federal executive agencies. The Federal executive agencies would not object to the enactment of House Joint Resolution 225 with the amendments recommended in this report.

This legislation, without taking into account our proposed amendments, seeks to create unique governmental machinery to administer the water and related land resources of the Delaware Basin, to wit an interstate-Federal commission. This commission would be composed of Governors of Delaware, New Jersey, New York, and Pennsylvania, and one member appointed by the President of the United States. Each member would have a single vote, and in most instances majority vote would control. The duration of the compact would be 100 years. It would continue for additional periods of 100 years, unless a State legislature or Congress gave notice of termination between the 75th and 80th years.

The commission would operate as an agency and instrumentality of all participating States and of the Federal Government. The compact would mandate the commission to develop and effectuate plans, policies, and projects relating to the water resources of the basin. It would grant also the commission sufficient power to control development of these resources. The commission would be empowered to construct and operate its own projects and facilities, financing them through loans, grants, or the issuance of bonds. It could establish standards of planning design and operation for all projects and facilities in the basin which affect its water resources. No project having a substantial effect on the basin's water resources



could be undertaken by a private, local, State, or Federal authority without approval of the commission. Its areas of control and development would include water supply, pollution control, flood protection, watershed management, recreation, hydroelectric power, and the regulation of withdrawals and diversions of water. In all these fields, the commission could cooperate in resource development and management with all other governmental agencies.

Unlike previous interstate river basin compacts, this one would bind the United States on generally the same basis as the participating States. The Federal Government would, however, be given special standing by section 1.4 of the compact which provides that adoption of the compact would not relinquish the functions, powers, or duties of Congress with respect to control of navigable waters, and that Congress could withdraw the Federal Government as a party or revise or modify the terms under which it would remain a party to the compact. Subject to this special provision, the United States would be controlled by the State-dominated commission in future Federal activities in the basin. No Federal expenditure or commitment for construction, acquisition, or operation of a project or facility affecting the basin water resources would be deemed authorized until it was first included in the commission's comprehensive plan.

As a Federal agency, the commission could be outside the jurisdiction of many Federal regulatory agencies. The repealer provision would amend all Federal acts or part of acts inconsistent with any provision of the compact to the extent necessary to carry out the compact's provisions. In effect, the compact would substitute the commission for the Federal and State Governments in planning, operating, controlling, and regulating the water resources of the Delaware River.

The breadth of the powers, both State and Federal, which would be conferred upon the compact commission, its distribution of voting strength, and the difficulties inherent in coordination of the commission's authority with national water resource policies developed by Congress raise serious questions as to the efficacy of the compact and as to its compatibility with appropriate State-Federal relationships.

On the other hand, for more than 25 years efforts to reach agreement on natural resource development in the Delaware Basin have met with failure or, at most, only partial success. Previous suggested compacts have failed of passage in one or more of the State legislatures involved. The present compact, however, has been approved in all four States and now awaits only congressional consent and approval of Federal participation. The States of the basin, by voting their approval, have evinced their strong desire to proceed under the pattern of the proposed compact.

Because of the urgent need for flood control and the immediate need for recreational and industrial planning and development in the Delaware River Basin, Federal representatives have met over the past 4 months with representatives of the four State Governors in an attempt to formulate mutually acceptable conditions which could be recommended to the Congress as a basis for Federal participation and enactment of consent legislation.

These discussions have resulted in agreement on proposed amendments to House Joint Resolution 225 which would provide the minimum necessary protection of Federal interests. The only item on which agreement could not be reached was the applicability of the

preference clause in connection with the power dispositions by the commission.

Even with these proposed amendments, the bill would not be acceptable were it not for the unique conditions and history in the Delaware Basin. We continue to hold the view that the Water Resources Planning Act of 1961 which the President proposed to the Congress in his message of July 13, 1961, provides generally a better method of Federal-State cooperation in planning for river-basin development. Inadequacies of the compact, even with the amendments proposed, demonstrate the need for such legislation. Nevertheless we have reached the conclusion that the urgent needs for resource planning and development in this area of mounting congestion outweigh the negative features of the compact. We do not object to this plan for resource development in the Delaware Basin under the particular conditions set out in this report. It should, however, establish no precedent in our search for orderly maximum development of this Nation's water resources.

The amendments proposed, with the reasons for each, are attached hereto as an appendix to this report.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Copies of this report are being distributed to the Federal agencies involved and they are invited to comment directly to your committee if additional comments are necessary.

Sincerely yours,

STEWART L. UDALL,  
*Secretary of the Interior.*

#### ADDENDUM TO REPORT ON HOUSE JOINT RESOLUTION 225

Pursuant to our report on House Joint Resolution 225, we recommend the following amendments to the bill. Explanatory material is inserted after each subsection of the proposed amendment. While some of the subsections in the proposed amendment are identical to certain provisions of section 15.1 as it was enacted in the House, all are the result of our discussions with representatives of the Delaware Basin States, as outlined in our report. For purposes of clarity, we are including comments on all amendments deriving from these discussions.

We propose that part II, article 15 of the bill be deleted and the following part II, article 15 be substituted in lieu thereof:

#### "PART II

#### "ARTICLE 15

#### "RESERVATIONS

"15.1 In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

"(a) No provision of Section 3.7 of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the Basin if such withdrawals or diversions



could lawfully have been made without charge on the effective date of the Compact; or to impose any charges with respect to commercial navigation within the Basin, jurisdiction over which is reserved to the Federal Government: *Provided*, That this paragraph shall be applicable to the extent not inconsistent with Section 1.4 of this Compact."

The purpose of this amendment is merely to clarify the intent of section 3.7 of the compact.

"(b) Nothing contained in the Compact shall be deemed to restrict the executive powers of the President in the event of a national emergency."

This amendment would assure that the President's powers in the event of national emergency are not restricted by the compact.

"(c) Notwithstanding the provisions of Article 2, section 2.2 of the Compact, the member of the commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President."

Section 2.2 now provides that the member appointed by the President serves during the term of office of the President. This amendment would place the tenure of the Federal member on the same basis as that which prevails generally for principal executives in the Federal service.

"(d) Nothing contained in the Compact shall be construed as impairing or in any manner affecting the applicability to all Federal funds budgeted and appropriated for use by the Commission, of such authority over budgetary and appropriation matters as the President and Congress may have with respect to agencies in the Executive Branch of the Federal Government."

This amendment would assure that no Federal funds are made available to the Commission unless they have been budgeted and appropriated in accordance with general law and standard Federal procedures.

"(e) Except to the same extent that state bonds are or may continue to be free or exempt from Federal taxation under the internal revenue laws of the United States, nothing contained in the Compact shall be construed as freeing or exempting from internal revenue taxation in any manner whatsoever any bonds issued by the Commission, their transfer, or the income therefrom (including any profits made on the sale thereon)."

Section 12.8 of the compact grants a tax exemption for bonds of the Commission and interest thereon for the life of the compact. This amendment would place the Commission bonds on a par with all other State bonds as respects Federal taxation.

"(f) Nothing contained in the Compact shall be construed to obligate the United States legally or morally to pay the principal or interest on any bonds issued by the Delaware River Basin Commission."

Section 12.20 of the compact already states that the parties will provide only such capital funds as are authorized by their respective statutes. This amendment would merely assure that no legal or moral obligation to pay principal or interest on bonds could be inferred from other language of the compact.

"(g) Notwithstanding the provisions of section 11.5 or any other provision of the Compact, the furnishing of technical services to the Commission by agencies of the executive branch of the Government of the United States is pledged only to the extent that the respective



agencies shall from time to time agree thereto or to the extent that the President may from time to time direct such agencies to perform such services for the Commission. Nothing in the Compact shall be deemed to require the United States to furnish administrative services or facilities for carrying out functions of the Commission except to the extent that the President may direct."

Section 11.5 of the compact would pledge each signatory party to provide technical services (within the limits of available appropriations) to the Commission. This amendment would assure retention by the President and respective Federal agencies of control over the furnishing of such services, and would prevent interpretation of the compact to require the furnishing of administrative services by Federal agencies.

"(h) All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are undertaken by the Commission or are financially assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the locality so determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in any workweek, as the case may be. A provision stating the minimum wages thus determined and the requirement that overtime be paid as above provided shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project. The Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards specified in this provision, the supervisory, investigatory and other authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c))."

Since the Commission would be a Federal instrumentality, this amendment would apply Federal labor standards to its contracting operations.

"(i) Contracts for the manufacture or furnishing of materials, supplies, articles and equipment with the Commission which are in excess of \$10,000 shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.)."

This amendment is similar in purpose to that of paragraph (h). The Walsh-Healey Act provides for labor standards in connection with supply contracts.

"(j) Notwithstanding any other provision of this Act, nothing contained in this Act or in the Compact shall be construed as superseding or limiting the functions, under any other law, of the Secretary of Health, Education and Welfare or of any other officer or agency of the United States, relating to water pollution: *Provided*, That the exercise of such functions shall not limit the authority of the Commission to control, prevent, or abate water pollution."

The interaction of article 5 relating to water pollution and the repealer clause of the compact with present Federal laws for abatement of pollution raised the possibility that Federal powers in this area might in some way be limited by the compact. This amendment

would make certain that existing Federal authority to abate or assist in the abatement of water pollution would not be affected by the compact.

“(k) The provisions of section 8.4 of Article 8 of the Compact shall not be construed to apply to facilities operated pursuant to any other Federal law.”

Section 8.4 of the compact would empower the Commission to adopt regulations for the award of private concession contracts in connection with recreation facilities. This amendment would prevent application of Commission regulations to concessions awarded in connection with the operation of recreation facilities by other Federal agencies.

“(1) For purposes of the Act of June 25, 1948, 62 Stat. 982, as amended (Title 28, U.S. Code, chapter 171, and sections 1346(b) and 240(b) and the Act of March 3, 1887, 24 Stat. 505, as amended (Title 28, U.S. Code, sections 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412, 2501), and the Act of June 11, 1946, 60 Stat. 237, as amended (Title 5, U.S. Code, sections 1001 and 1011, Title 50 App. U.S. Code, section 1900), the Commission shall not be considered a Federal agency.”

Because the Commission would be a Federal agency, this amendment is necessary to exempt it from the Federal Tort Claims Act, Tucker Act, and Administrative Procedure Act.

“(m) The officers and employees of the Commission (other than the United States member, alternate United States member, and advisers, and personnel employed by the United States member under direct Federal appropriation) shall not be deemed to be, for any purpose, officers or employees of the United States or to become entitled at any time by reason of employment by the Commission to any compensation or benefit payable or made available by the United States solely and directly to its officers or employees.”

The status of the Commission as a Federal agency also necessitates this amendment to provide that employees of the Commission are not deemed employees of the United States or entitled to any compensation or benefits available only to such employees.

“(n) Neither the Compact nor this Act shall be deemed to enlarge the authority of any Federal agency other than the Commission to participate in or to provide funds for projects or activities in the Delaware River Basin.”

This amendment is designed to assure that congressional and executive direction as to activities of Federal agencies in the basin is preserved.

“(o) The United States district courts shall have original jurisdiction of all cases or controversies arising under the Compact, and this Act and any case or controversy so arising initiated in a State Court shall be removable to the appropriate United States district court in the manner provided by § 1446, Title 28 U.S.C. Nothing contained in the Compact or elsewhere in this Act shall be construed as a waiver by the United States of its immunity from suit.”

The compact would allow court appeals from many decisions of the Commission. This amendment would establish Federal court jurisdiction over cases arising under the compact, and would assure that any such cases initiated in a State court could be removed to a Federal court.



“(p) The right to alter, amend, or repeal this Act is hereby expressly reserved. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by the Delaware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee.”

The first sentence of this amendment is a standard provision to enable Congress to alter, amend or repeal this act at any time in the future. This sentence would also clarify any ambiguities in the language of section 1.4 of the compact. That section would allow Congress to modify the terms under which it may remain a party to the compact “by amendment, repeal or modification of any Federal statute applicable thereto \* \* \*.” The proposed amendment would assure that this language is not construed to apply only to existing Federal statutes and allows Congress full latitude in future legislation. The second sentence of the amendment was suggested by the Judiciary Committee of the House of Representatives.

“(q) The provisions of section 2.4 and 2.6 of Article 2 of the Compact notwithstanding, the member and alternate member appointed by the President and adviser there referred to may be paid compensation by the United States, such compensation to be fixed by the President at the rates which he shall deem to prevail in respect to comparable officers in the executive branch.”

Sections 2.4 and 2.6 of the compact provide that the members of the commission and their alternates and advisers shall serve without compensation. Since State Governors represent the States on the commission and other State officers may serve as alternates and advisers, this provision may be appropriate for them, but in the event that the Federal member or his alternate or adviser holds no other Federal office obviously compensation would be required.

“(r)1. Nothing contained in this Act or in the Compact shall impair or affect the constitutional authority of the United States or any of its powers, rights, functions, or jurisdiction under other existing or future legislation in and over the area or waters which are the subject of the Compact including projects of the Commission: *Provided*, That whenever a comprehensive plan, or any part or revision thereof, has been adopted with the concurrence of the member appointed by the President, the exercise of any powers conferred by law on any officer, agency or instrumentality of the United States with regard to water and related land resources in the Delaware River Basin shall not substantially conflict with any such portion of such comprehensive plan and the provisions of Section 3.8 and Article 11 of the Compact shall be applicable to the extent necessary to avoid such substantial conflict: *Provided further*, That whenever the President shall find and determine that the national interest so requires, he may suspend, modify or delete any provision of the comprehensive plan to the extent that it affects the exercise of any powers, rights, functions, or jurisdiction conferred by law on any officer, agency or instrumentality of the United States other than the Commission. Such action shall be taken by executive order in which such finding and determination shall be set forth.

“2. For the purposes of paragraph 1 hereof, concurrence by the member appointed by the President shall be presumed unless within 60 days after notice to him of adoption of the comprehensive plan, or any part or revision thereof, he shall file with the Commission notice



of his nonconcurrence. Each concurrence of the member appointed by the President in the adoption of the comprehensive plan or any part or revision thereof may be withdrawn by notice filed with the Commission at any time between the first and sixtieth day of the sixth year after the initial adoption of the comprehensive plan and of every sixth year thereafter."

In the absence of this proposed amendment, the compact would exempt the commission from much of the regulatory control of Federal agencies, and would require commission approval for any Federal or federally licensed project developing the water or related land resources of the basin. This amendment would provide that the licensing and regulatory authorities of the Federal agencies and the powers of other Federal agencies to act with regard to projects in the basin would be preserved, except that where the Federal member concurred in the adoption of the comprehensive plan or any part or revisions thereof, the exercise of any of these powers by any Federal agency could not substantially conflict with that portion of the comprehensive plan. It would also provide that the Federal member could review his concurrences every 6 years. As a further safeguard the President would have the power at any time the national interest so required to suspend, modify, or delete any provision of the comprehensive plan insofar as it might affect the exercise of any Federal powers.

"(s) In the event that any phrase, clause, sentence or provision of Section 1.4 of Article 1 of the Compact, is declared to be unconstitutional under the constitution of any of the signatory parties, or the applicability thereof to any signatory party, agency or person is held invalid by a court of last resort of competent jurisdiction, the United States shall cease to be a party to the Compact, except to the extent that the President deems remaining a party necessary and proper to protect the national interest, and shall cease to be bound by the terms thereof."

All these amendments in this report are proposed to be made pursuant to the provision of section 1.4 of the compact. Ordinarily, if any party to an interstate compact conditions the terms of his participation, his consent is void unless these conditions are approved by the other parties. Here, however, in section 1.4, the other parties to this compact have agreed in advance to allow the Federal Government to condition the terms of its participation. If this section 1.4 were declared null and void, all Federal conditions would be void. In the absence of these conditions Federal interests would not be adequately protected. This amendment would assure that the Federal Government could withdraw in the event that section 1.4 was invalidated.

"(t) In making sales or leases of hydroelectric power generated pursuant to Article 9 of the Compact, preference shall be given to public bodies and cooperatives so defined in section 3 of chapter 720 of the Act of August 20, 1937, 50 Stat. 733 (Title 16, U.S. Code, section 832b)."

The commission is by section 2.1 of the compact, an agency and instrumentality of the Federal Government. It has been national policy since 1906 to provide for preference in the sale of power developed under Federal auspices. Particularly should such a requirement apply when substantial Federal funds are involved.

"(u) All Acts or parts of Acts inconsistent with the provisions of this Act are hereby amended for the purpose of this Act to the extent necessary to carry out the provisions of this Act: *Provided, however,* That no act of the Commission shall have the effect of repealing, modifying or amending any Federal law."

This amendment is similar to section 15.1 of the bill, but would add a proviso to assure that, in the exercise of the broad powers granted it by the compact, the commission could not effect the repeal or modification of any Federal law. Also in the first line of the paragraph, the words "any provision" would be changed to "the provisions" to assure that any determination of inconsistency take into account the effect of these reservations upon the body of the compact.

#### EFFECTUATION

"15.2(a) The President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the Compact and the initial organization and operation of the Commission thereunder."

This provision is now incorporated in S. 856 as section 15.2.

"(b) Executive departments and other agencies of the executive branch of the Federal Government shall cooperate with and furnish appropriate assistance to the United States member. Such assistance shall include the furnishing of services and facilities and may include the detailing of personnel to the United States member. Appropriations are hereby authorized as necessary for the carrying out of the functions of the United States member, including appropriations for the employment of personnel by the United States member."

This amendment is recommended to insure full cooperation between the Federal member of the commission and the Federal agencies.

#### EFFECTIVE DATE

"15.3 This Act shall take effect immediately."

#### OPINION ON THE CONSTITUTIONALITY OF THE PROPOSED DELAWARE RIVER BASIN COMPACT

JUNE 1, 1960.

Mr. JOHN P. ROBIN,  
*Chairman, Delaware River Basin Advisory Committee,*  
*Philadelphia, Pa.*

DEAR SIR: You have asked us for an opinion on the constitutionality of your draft (draft B, March 1, 1960) of a proposed Federal-State compact, to be known as the Delaware River Basin compact. Under this proposal, the States of Delaware, New Jersey, New York, and Pennsylvania, and the Government of the United States would join together to create the "Delaware River Commission," a regional agency with territorial jurisdiction over the entire area of the Delaware River Basin, including territory of each of the signatory States. This regional agency would have a wide variety of regulatory and administrative powers for the multipurpose development of the water resources of the basin for the benefit of the local, State, and national interests in the region. More specifically, the Delaware River Commission is charged with the duty, and is given correlative power, to plan and execute the development of water resources by acquiring or



building, and operating and maintaining dams, reservoirs, and similar facilities to control and develop the water supply; to regulate the flow so as to control water quality and pollution, to control and abate existing pollution by setting and administering standards, rules, and regulations; to plan and carry out projects for flood protection and for the improvement of navigation; to promote sound watershed management, including the operation of projects to encourage soil conservation, propagation of fish and wildlife, erosion control, and land reclamation and forestry practices; to promote, and to operate recreational facilities; to develop and operate facilities for the generating and transmission (but not for direct consumer distribution) of hydroelectric power, and to set rates and charges for such power; and to regulate and control withdrawals and diversions from the waters of the basin.

A wide variety of implementing powers and lesser housekeeping powers would be granted the Commission, including the power to delegate certain of its powers to instrumentalities of the signatory governments, to establish cost sharing standards and formulas to apportion costs among the different purposes included in multi-purpose programs, and for sharing of financial responsibility with the signatory parties, public bodies, groups and private enterprise. The compact contains broad borrowing powers and power to issue bonds, and pledges the full faith and credit of the Commission, but not that of the signatory governments. The signatories agree to provide capital funds for the projects of the Commission, in accordance with the cost-sharing provisions agreed to, but subject to the legislative appropriation of the respective parties, and provides for a method for the approval of the Commission's budget by the chief executives of the signatories. The Commission's powers include the power of eminent domain. The State signatories agree not to undertake any development projects in relation to the Delaware River Basin unless such a project is approved by the Commission and made a part of the Commission's program. The Federal Government agrees to substantially the same terms, except that its agreement is subject to the provision that—

“Nothing in this compact shall be construed to relinquish the functions powers or duties of the Congress of the United States with respect to the control of any navigable waters within the basin, nor shall any provision hereof be construed in derogation of any of the constitutional powers of the Congress to regulate commerce among the States and with foreign nations.”

The Commission which is to exercise this broad sweep of powers is to consist of five members, one appointed by each of the governors of the signatory States, and one appointed by the President of the United States. No action is to be taken by the Commission except on a majority vote of the total membership—i.e., by a three-fifths vote. The Commission is to be an agency and instrumentality of each of the signatory parties—i.e., it has the character of both a State agency of each of the party States, as well as that of an agency of the Federal Government.

#### ISSUES PRESENTED

I. Has Congress the power to enact legislation joining the Federal Government as a party to the proposed Delaware River Basin compact?



II. If Congress has the power to enact legislation making the Federal Government a party to such a compact, may Congress delegate to the compact agency the execution of Federal administrative and regulatory duties?

III. If Congress has the power to enact legislation making the Federal Government a party to such a compact, to what extent would the compact bind the United States, particularly in regard to the power of Congress to make laws inconsistent with the obligations previously incurred by the Federal Government under the compact?

#### OUTLINE OF OPINION

I. Congress has power to enact legislation joining the Federal Government as a party to the proposed Delaware River Basin compact.

A. Congress has power to make laws for the development of the water resources of a navigable river.

B. The enactment of legislation to create a Federal-State compact is a proper method for the exercise of the power.

1. The U.S. Supreme Court has uniformly upheld contractual arrangements in the nature of compacts between the Federal Government and one or more States.

2. The Supreme Court has expressed itself repeatedly in favor of the compact device to solve regional problems, and has recently explicitly recognized compacts as a means of safeguarding the national interest.

3. Federal-State cooperation, through Federal participation in interstate compacts and otherwise is a commonplace occurrence; full Federal participation in a compact is harmonious with the pattern of practical Federal-State cooperation.

II. Congress may delegate to the proposed Delaware River Commission the execution of Federal administrative and regulatory duties.

III. The Delaware River Basin compact will be binding upon the Federal Government to the extent of fiscal obligations undertaken by the Government, but will not restrict the power of Congress to pass laws inconsistent with the compact in relation to such fields as navigation or the regulation of interstate and foreign commerce.

A. Fiscal obligations of the Federal Government remain binding obligations, although they will not be judicially enforceable unless the United States evidences its consent to be sued, by providing an enforcement procedure or otherwise.

B. The compact does not limit congressional power to make laws under the Constitution.

#### OPINION

I. Congress has power to enact legislation joining the Federal Government as a party to the proposed Delaware River Basin compact.

A. Congress has power to make laws for the development of the water resources of a navigable river.

Congress has power to make laws joining the United States as a party to the contemplated compact with Delaware, New Jersey, New York, and Pennsylvania for the development of the Delaware River Basin. The development of the basins of navigable rivers, including the regulation of the water supply, quality and pollution control,

protection of navigation, flood protection, and the development of hydroelectric power, is clearly within the congressional power. Federal control over navigable streams dates back to *Gibbons v. Ogden*, 9 Wheat. 1 (1824). A concise rationale of this power was articulated in *Gilman v. Philadelphia*, 3 Wall. 713, 724 (1866):

"Commerce includes navigation. The power to regulate commerce comprehends the control, for that purpose and to extend necessary, of all navigable waters of the United States which are accessible from a State other than those in which they lie. For this purpose they are the public property of the Nation, and subject to all requisite legislation by Congress."

The "*Daniel Ball*" v. *United States*, 10 Wall. 557 (1871), decided that the United States has control even if the navigable waterway is within a single State. The power has been judged to extend to wharfage, dock, warehouse, and terminal facilities, *California v. United States*, 320 U.S. 577 (1944).

Federal power over navigable waterways, however, is not limited to navigation:

"\* \* \* it cannot properly be said that the constitutional power of the United States over its waters is limited to control for navigation \* \* \*. Flood protection, watershed development, recovery of the costs of improvements through the utilization of power are likewise parts of commerce control \* \* \*. That authority is as broad as the needs of commerce. *United States v. Appalachian Electric Power Co.*, 311 U.S. 377, 426 (1940)."

Nor is the source of the power restricted to the commerce clause. Other relevant bases are the war power, admiralty power, and the power to provide for common defense, *Ashwander v. Tennessee Valley Authority*, 297 U.S. 288 (1936); *Oklahoma ex rel. Phillips v. Atkinson Co.*, 313 U.S. 508 (1941). The Supreme Court, in *United States v. Gerlach Live Stock Co.*, 339 U.S. 725, 738 (1950), stated:

"[T]he power of Congress to promote the general welfare through large-scale projects for reclamation, irrigation, or other internal improvement, is now as clear and ample as its power to accomplish the same results indirectly through resort to strained interpretation of the power over navigation."

Congress' specific right to develop and sell hydroelectric power was recognized in the *Ashwander* case, as well as in *United States ex rel. Chapman v. Federal Power Commission*, 345 U.S. 153 (1952), and in *United States v. Chandler-Dunbar Co.*, 229 U.S. 53 (1913). In *Arizona v. California*, 283 U.S. 423, 456 (1931), Mr. Justice Brandeis wrote:

"\* \* \* The erection and maintenance of such dam and reservoir are clearly within the powers conferred upon Congress \* \* \*. And the fact that purposes other than navigation will also be served could not invalidate the exercise of the authority conferred, even if those other purposes would not alone have justified an exercise of the congressional power."

As already noted, these "other purposes" would be considered a proper exercise of Federal power today even if standing alone.

The power of Congress over flood control on navigable streams has been explicitly recognized as extending to tributaries and watersheds, and to include the power to control, under a comprehensive plan, the entire basin of the stream (*Oklahoma ex rel. Phillips v. Atkinson Co.*, 313 U.S. 508 (1941)).



B. The enactment of legislation to create a Federal-State compact is a proper method for the exercise of the power.

1. *The U.S. Supreme Court has uniformly upheld contractual arrangements in the nature of compacts between the Federal Government and one or more States.*—With Federal power to regulate beyond doubt, we may inquire whether a Federal-State compact is an appropriate method for the exercise of the power. The often-quoted dictum in *McCulloch v. Maryland*, 4 Wheat. (17 U.S.) 316, 421 (1819), is applicable here, too:

“\* \* \* [T]he sound construction of the Constitution must allow to the National Legislature that discretion, with respect to the means by which the powers it confers are to be carried into execution, which will enable that body to perform the high duties assigned to it, in the manner most beneficial to the people. Let the end be legitimate, let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the Constitution, are constitutional.”

The Constitution does not prohibit the Federal Government from entering into compacts with one or more of the States. Contractual arrangements between the Federal Government and one or more of the States, much in the nature of compacts, have long been upheld by the U.S. Supreme Court. *Seawright v. Stokes*, 3 How. 151 (1845), involved agreements between the Federal Government and the States of Pennsylvania, Ohio, Maryland, and Virginia, relating to the Cumberland Road. The Federal Government had constructed the road, but in spite of its great economic importance to the Nation and the States through which it passed, it had fallen into disrepair from excessive use. By concurrent legislation, the Federal Government agreed to make the necessary repairs and to surrender that portion of the road to each of the States through which it passed. The States, in turn, agreed to keep their respective portions of the road in good repair, collecting the necessary funds out of tolls, but no tolls were to be charged to coaches or wagons carrying Federal mail, troops, or equipment. The specific question before the Court was the validity of a Pennsylvania statute imposing one-half of the usual toll on carriages carrying both mail and passengers. In holding the Pennsylvania statute invalid, the Court rested its decision on the intention of the contracting parties as evidenced by their agreement, embodied in the concurrent legislation. Throughout his opinion, Chief Justice Taney, speaking for the majority, refers to these agreements as compacts. Finding that the original construction of the Cumberland Road was within congressional power, the Chief Justice upheld the agreements in the following significant terms:

“\* \* \* The object of the compacts was to preserve the road for the purposes for which it had been made. The right of the several States to enter into these agreements will hardly be questioned by anyone \* \* \*. Neither do we see any just ground for questioning the power of Congress” (3 How. 151, 166).

It is noteworthy that even the dissent conceded the constitutionality of the “compacts” involved, although in disagreement regarding the intent of the parties. A companion case on substantially similar facts reached the same conclusion concerning the validity of the “compacts” (*Neil, Moore & Co. v. Ohio*, 3 How. 720 (1845)).



Contractual arrangements between the Federal Government and the States were approved also in *Ex parte Karstendick* (93 U.S. 396 (1876)), which involved the question whether a Federal prisoner convicted in one State may be committed to a State institution in another State, there to serve his sentence under more onerous conditions. In upholding the commitment, the Court accepted the validity of contractual arrangements between the Federal Government and the State of Louisiana for the incarceration of Federal prisoners in a Louisiana penal institution.

"It is conceded that Congress has the power to provide that persons convicted of crimes against the United States in one State may be imprisoned in another. Congress can cause a prison to be erected in any place within the jurisdiction of the United States, and direct that all persons sentenced to imprisonment under the laws of the United States shall be confined there; or it may arrange with a single State for the use of its prisons, and require the courts of the United States to execute their sentences of imprisonment in them. All this is left to the discretion of the legislative department, and is beyond the control of the courts" (93 U.S. at p. 400).

In the field of land cession by States to the Federal Government, the Court has uniformly upheld the conditions imposed by the States, treating the entire arrangement as contractual in nature. In *Collins v. Yosemite Park & Curry Company* (304 U.S. 518 (1937)), California had ceded land in Yosemite Valley to the United States for use as a national park. The land grant to the Federal Government reserved to California, as a condition of the cession, "the right to tax persons and corporations, their franchises, and property on the lands included in said parks; \* \* \*" Appellee corporation had sued to enjoin the appropriate California official from enforcing within the park's limits the State's Alcoholic Beverage Control Act, which imposed a license requirement as well as a tax on sales of liquor. The Court held that the part of the act which imposed a tax was properly enforceable against the corporation, since it was within the powers California had reserved, but that the licensing requirement was unenforceable because it was not within the reservation. In so holding, the Court upheld the validity of the agreement between the Federal Government and the State in the following terms:

"The States of the Union and the National Government may make mutually satisfactory arrangements as to jurisdiction of territory within their borders and thus in a most effective way, cooperatively adjust problems flowing from our dual system of government. Jurisdiction obtained by consent or cession may be qualified by agreement or through offer and acceptance or ratification \* \* \*. These arrangements the courts will recognize and respect" (304 U.S. at p. 528).

A similar result was reached in *James v. Dravo Contracting Co.* (302 U.S. 134 (1937)), decided the same term.

Contractual conditions arising from land cession by States to the Federal Government for the purpose of creating new States, under article IV, section 3 of the Constitution, have also been upheld despite the fact that the Constitution does not expressly allow the ceding State to impose such conditions or Congress to accept them. See; e.g., *Pollard v. Hagan* (3 How. 212 (1845)); *McCool v. Smith* (1 Black 459 (1862)). In another land cession case, *Fort Leavenworth Railroad Co. v. Lowe* (114 U.S. 525 (1885)), arising under article I, section 8, clause 17, which provides for the acquisition of land by the

Federal Government "for the erection of forts, magazines, arsenals, dock-yards and other needful buildings," the Court upheld contractual conditions relating to the cession of lands by Kansas for the erection of Fort Leavenworth, in spite of the fact that the Constitution provides for "exclusive legislation" by Congress in the clause referred to. The Court said:

"Though the jurisdiction and authority of the general government are essentially different from those of the State they are not those of a different country; and the two, the State and General Government, may deal with each other in any way they may deem best to carry out the purposes of the Constitution" (114 U.S. 525, 541).

2. *The Supreme Court has expressed itself repeatedly in favor of the compact device to solve regional problems, and has recently explicitly recognized compacts as a means of safeguarding the national interest.*—The proposed Delaware River Basin compact, when enacted by Congress, will share the usual presumption of constitutionality with all other duly enacted acts of Congress. In addition, it will also encounter a sympathetic forum in the Supreme Court, since the Court has repeatedly expressed itself in favor of the wider use of the compact device in solving regional problems, particularly in regional problems relating to water resources. In *New York v. New Jersey* (256 U.S. 296 (1921)), involving a dispute concerning the pollution of the waters of New York Bay, the Court suggested to the parties that their controversy might better be solved by agreement than by litigation:

"We cannot withhold the suggestion, inspired by the consideration of this case, that the grave problem of sewage disposal presented by the large and growing populations living on the shores of New York Bay is one more likely to be wisely solved by cooperative study and by conference and mutual concession on the part of representatives of the States so vitally interested in it than by proceedings in any court however constituted" (256 U.S. 296, 313).

A similar suggestion to the States to take recourse to a compact, rather than to the courts, is found in *Washington v. Oregon* (214 U.S. 205, 218 (1909)), and in *Minnesota v. Wisconsin* (252 U.S. 273, 283 (1920)), both of which involved border disputes. In *Hinderlider v. La Plata River & Cherry Creek Ditch Co.* (304 U.S. 92, 104–106 (1938)), the Court again spoke approvingly of the use of the interstate compact device in a case involving the apportionment of water resources.

The most significant statement for present purposes, however, appears in *West Virginia ex rel. Dyer v. Sims* (341 U.S. 22 (1951)), which involved the construction of the Ohio River Valley water sanitation compact. The main question before the Court was West Virginia's responsibility under the compact, which, in turn, depended on the validity of the compact legislation under the State constitution of West Virginia. In holding the compact valid under West Virginia's constitution, and West Virginia bound by its contractual obligation, Justice Frankfurter, speaking for the majority, remarked that pollution in interstate streams might, on occasion, be an appropriate subject for national legislation, but that the Constitution leaves the States free to settle regional controversies in diverse ways. Pointing to litigation as the most unsatisfactory way of settling regional problems, he continues:

"Indeed, so awkward and unsatisfactory is the available litigious solution for these problems that this Court deemed it appropriate to emphasize the practical constitutional alternative provided by the compact



clause. Experience led us to suggest that a problem such as that involved here is 'more likely to be wisely solved by cooperative study and by conference and mutual concession on the part of representatives of the States so vitally interested in it than by proceedings in any court, however constituted' (*New York v. New Jersey*, *supra*, at 313). The suggestion has had fruitful response. The growing interdependence of regional interests calling for regional adjustments, has brought extensive use of compacts. A compact is more than a supple device for dealing with interests confined within a region. *That it is also a means of safeguarding the national interest is well illustrated in the compact now under review. Not only was congressional consent required, as for all compacts; direct participation by the Federal Government was provided in the President's appointment of three members of the Compact Commission*" (art. IV; sec. 3 [emphasis supplied] (at pp. 27-28).

Although the question of Federal participation in the Ohio River Valley water sanitation compact is far less extensive than in the proposed Delaware River Basin compact, these statements gain in significance when it is recalled that the Court has already recognized the regional nature of the water resources problem in the Delaware River Basin in *New Jersey v. New York* (283 U.S. 336 (1931), decree modified 347 U.S. 995 (1954)). The case involved an attempt by New Jersey to enjoin the State of New York and the city of New York from diverting any water from the Delaware River or its tributaries. In denying the injunction, Mr. Justice Holmes remarked:

"A river is more than an amenity, it is a treasure. It offers a necessity of life that must be rationed among those who have power over it. New York has the physical power to cut off all the water within its jurisdiction. But clearly the exercise of such a power to the destruction of the interest of the lower States could not be tolerated. And on the other hand equally little could New Jersey be permitted to require New York to give up its power altogether in order that the river might come down to it unidiminished. Both States have real and substantial interests in the river that must be reconciled as best as they may be" (at pp. 342-343).

In the decree, whereby the Court retained continuing jurisdiction, the Court went even further, recognizing the interests of Pennsylvania, as well as the paramount authority of Congress and of the United States in respect to navigation on the river.

If additional support for the constitutionality of Federal participation in a compact is necessary, it may be recalled that the compact clause requires nothing more than congressional consent before allowing States to enter into compacts "with another State or with a foreign power." The Court has held that congressional consent is required only for compacts which might affect the political balance of the Federal system of government. *Virginia v. Tennessee*, 148 U.S. 503, 521 (1893); see also Story, "Commentaries on the Constitution of the United States" (1833), section 1403. If the protection of the political balance of the Federal system is the main purpose of the purpose of the compact clause, and if the protection of this political balance is adequately safeguarded (even as to compacts with foreign powers) merely by congressional consent, then it is protected even more assuredly by a compact where there is not only congressional consent, but actual participation by the Federal Government.

3. *Federal-State cooperation, through Federal participation in interstate compacts and otherwise, is a commonplace occurrence; full Federal participation in a compact is harmonious with the pattern of practical*



*Federal-State cooperation.*—Federal-State association to achieve inter-related goals may be seen in a number of instances, of which the Ohio River Valley sanitation compact referred to in connection with *Dyer v. Sims, supra*, is only one example. In the upper basin compact for the Colorado River, the United States and the signatory States are equally represented on a regulatory commission; the compact is primarily devoted to power development and irrigation. 63 Stat. 31 (1949). The Federal Government, through the District of Columbia, is also a signatory of the Potomac River compact, but the compact commission's function is merely an advisory one. 54 Stat. 748 (1940). Other instances of Federal participation, largely of a consultative nature, are described in the task force reports of the Commission on Organization of the Executive Branch on "Water Resources and Power," particularly Vawter, "Interstate Compacts—the Federal Interest," 3 Task Force Report on Water Resources and Power, 1683 to 1723, and Page, "Patterns of Federal—Non-Federal Partnership in Water Resource Development," *id.*, pp. 1581–1671 (1955).

There is at least one suggestion that the participation of the Federal Government is essential in a compact involving control of navigation. President Franklin D. Roosevelt vetoed a bill granting congressional consent to the Republican River compact agreement, because in his opinion the compact sought "to withdraw the jurisdiction of the United States over the waters of the Republican Basin for purposes of navigation, and \* \* \* to restrict the authority of the United States to construct irrigation works and to appropriate water for irrigation purposes in the basin." 88 Congressional Record 3286 (1942). But see, *Pennsylvania v. Wheeling and Belmont Bridge Co.*, 18 How. 421, 433 (1855) *infra*, p. 23.

Even a casual perusal of the titles 16 and 33 of the United States Code, dealing with conservation and navigation and navigable waters, show that Congress with increasing frequency enacts laws contemplating cooperation with the States and utilizing State agencies to carry out the law in these fields. While full participation of the Federal Government in a compact may be novel, it is merely the most recent step in a long-established course of practical adjustment of the Federal system to emerging needs. (Cf. Clark, "The Rise of a New Federalism" (1938), particularly ch. III, "Agreements and Contracts," pp. 46–80.)

II. Congress may delegate to the proposed Delaware River Commission the execution of Federal administrative and regulatory duties.

The congressional legislation enacting the proposed Delaware River Basin compact, and creating an agency, the Delaware River Commission, to carry out certain defined powers and duties is no different from other Federal legislation regulating specified areas and creating new agencies to administer the law. The compact designates the Delaware River Commission as an instrumentality of the signatory States, as well as of the Federal Government. There appear to be no constitutional limitations on Congress in the designation of regulatory agencies to carry out the law in an area in which Federal power to act is clear (*McCulloch v. Maryland, supra*, pp. 7, 8). And the proposed compact clearly enunciates the policy and standards for the guidance of the Delaware River Commission so as not to exceed the "limits of delegation which there is no constitutional authority to transcend" (*Panama Refining Co. v. Ryan*, 293 U.S. 388, 430 (1935); see also *Schechter Poultry Corp. v. United States*, 295 U.S. 495, 529–530 (1935)).

The fact that four out of the five members of the Delaware River Commission are to be appointed by the signatory States, and only one by national authority does not detract from the Commission's power as a national instrumentality. The Constitution provides that the President, with the advice and consent of the Senate, "shall appoint Ambassadors, other public ministers and consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments." Article II, section 2. The quoted provision has never been held to be a limitation on the powers of an appointee, nor has it been held to be a limitation on the manner in which specific officers, other than Members of the Cabinet, Ambassadors, consuls and Supreme Court Judges, are to be appointed. In *Auffmordt v. Hedden*, 137 U.S. 310, 327 (1890), the imposition of certain import duties on the plaintiff was challenged because the "merchant appraiser" who had fixed the value of the dutiable goods had not been appointed as provided in article II, section 2 of the Constitution. The Court held that the merchant appraiser was not an officer of the United States within the meaning of the Constitution, and hence did not have to be appointed in accordance with its provisions. Nevertheless, the Court refused to concede that the fact that he was not an officer in any way limited his power to act as prescribed by law. The Court also indicated that the term "office" or "officer" embrace ideas of tenure, duration, emolument and duties, continuing and permanent, not occasional and temporary, as well as requiring the giving of bond and the taking of an oath of office.

In other cases; e.g., *United States v. Germaine*, 99 U.S. 508 (1879); *United States v. Hartwell*, 6 Wall, 385 (1868); *United States v. Smith*, 124 U.S. 525, 532 (1888); and *United States v. Mouat*, 124 U.S. 303, 307 (1888), the constitutional provision concerning the appointment of officers was used merely as a test to determine whether some other law applied—in the first three cases cited, the defendants were acquitted of crimes such as embezzlement, because the applicable law was aimed at "officers" and the defendants had not been appointed in the manner provided for officers in the Constitution; and in the last instance, it was held that a claimant was not an "officer" so as to entitle him to certain mileage fees, again because his appointment did not meet the constitutional requirement. Thus it is clear that article II, section 2, has never been used either as a restriction on the manner of appointment, nor as a limitation on the powers of employees whose powers are prescribed by law. While the members of the Delaware River Commission will not be Federal "officers" within the meaning of the Constitution, this will in no way limit their authority to act as prescribed by law.

The case for the exercise of Federal regulatory powers by the Delaware River Commission is strengthened by the designation of the Commission as a Federal instrumentality. But this designation, while useful, is not essential, because many instances of execution of Federal law and policy by State officers may be noted. We have already referred to the use of State prisons for Federal convicts, *supra*, p. 9, 18 U.S.C. 4002; *United States v. Hoffman*, 13 F. 2d 269 (D.C. Ill. 1925), *aff'd* 13 F. 2d 278 (7th Cir. 1925). The Social Security Act furnishes other instances, 42 U.S.C. 302, 421, 503, 602,



703, 713, 1202, 1352 (1957); the Federal control over social security administration is in part maintained by grants in aid for the support of State administrative agencies, conditioned upon their satisfying Federal standards concerning policies and methods. This Federal-State program has been upheld in *Carmichael v. Southern Coal & Coke Co.*, 301 U.S. 495 (1937).

Other examples may be found in the conservation area, 16 U.S.C. A.509a-590g (soil conservation), 590r-590z-11 (water conservation), 757 (use of services and facilities of States in preserving fish and wildlife resources), and 1001-1008 (watershed protection and flood protection); and most recently, by amendment of the Atomic Energy Act in 1959, a major share of the regulation of the nuclear energy field may be assumed by the States under agreement with the Atomic Energy Commission, 42 U.S.C. A.2021; still further examples are referred to in Clark, "The Rise of a New Federalism," particularly chapter IV, "Cooperative Use of Government Personnel," pp. 82-108 (1938).

Thus, as a practical matter, the use of State personnel to carry out Federal law or policy is well accepted, particularly in the water resources and conservation field. The proposed compact agency, designated both a Federal as well as a State instrumentality, will thus have a full charter of regulatory authority, deriving its power both by delegation from the States and from the Federal Government.

III. The Delaware River Basin compact will be binding upon the Federal Government to the extent of fiscal obligations undertaken by the Government, but will not restrict the power of Congress in such fields as navigation or the regulation of interstate and foreign commerce.

A. Fiscal obligations of the Federal Government remain binding obligations, although they will not be enforceable unless the United States evidences its consent to be sued, by enforcement procedure or otherwise.

In joining the Delaware River Basin compact, the Federal Government would be bound to the extent the provisions of the compact itself purport to bind it, although no part of the obligation of the United States would be judicially enforceable in the absence of its consent to be sued.

"When the United States, with constitutional authority, makes contracts, it has rights and incurs responsibilities similar to those of individuals who are parties to such instruments. There is no difference, said the Court in *United States v. Bank of the Metropolis* (15 Pet. 377, 393), except that the United States cannot be sued without its consent." (*Perry v. United States*, 294 U.S. 330, 352 (1935)).

See also, Zimmerman and Wendell "The Interstate Compact Since 1925," page 64 (1950).

Article I, section 10, forbids a signatory State's enacting any "Law impairing the Obligation of Contracts;" and this prohibition, while of little contemporary significance in respect of a State's capacity to legislate concerning the validity of private contracts, has been held to be absolute in respect of the obligation imposed by a compact. See *Green v. Biddle* (8 Wheat. 1, 13 (1823)); *Virginia v. West Virginia* (246 U.S. 565 (1918)); *West Virginia ex rel. Dyer v. Sims* (341 U.S. 22 (1951)); *Pennsylvania v. Wheeling and Belmont Bridge Co.* (13 How. 518, 566 (1852)); *Olin v. Kitzmiller* (259 U.S. 260 (1922)); with which compare, as to the obligation of private contracts, *Home Building and Loan Association v. Blaisdell* (290 U.S. 398 (1934)). No similarly explicit constitutional restraint rests upon the Federal Government.



Nevertheless, the Supreme Court has strongly indicated that the Federal Government is, like a State, obligated to respect its own contractual undertakings. In *Lynch v. United States* (292 U.S. 571 (1934)), in a suit against the United States on an insurance policy issued by the Government, the Government defended on the grounds that the law pursuant to which the policy had been issued had since been repealed for reasons of economy and that such repeal constituted a withdrawal of the Government's consent to be sued on the policy. The Court held that the repeal did not merely abrogate consent to be sued, but was, in fact, a repudiation of the underlying obligation. In holding for the plaintiff, Justice Brandeis, speaking for a unanimous Court, indicated that "Rights against the United States arising out of a contract with it are protected by the fifth amendment." Congress had power to authorize the contracts, and "the due process clause prohibits the United States from annulling them, unless, indeed, the action taken falls within the Federal police power or some other paramount power."

Similar expressions can be found in *Perry v. United States* (294 U.S. 330 (1935)), one of the "gold clause" cases. Plaintiff sued on a U.S. Liberty Loan gold bond issued in 1918, which contained a provision to pay in gold coin of the United States "of the present weight and fineness." At the time the bond was issued, a gold dollar contained about 25 grains of gold, and prior to the suit, the dollar had been devalued to contain about 15 grains of the same fineness. The holder on redemption of the bond demanded payment of either \$10,000 in "old" gold dollars, or \$16,931.25 as the equivalent in devaluated dollars. The Government having refused to redeem the bond except by payment of \$10,000 in legal tender, the plaintiff sued for the claimed value of the Government's obligation.

The plaintiff based his suit on the contention that the abrogation of the gold clause was an unconstitutional deprivation of property without due process of law, violating the fifth amendment; the Government contended that the abrogation of the gold clause was a proper exercise of national fiscal powers and that the Government could not restrict the exercise of its "sovereign power." Finding that the plaintiff had failed to prove actual damages, the Court gave judgment for the United States. This might have ended the matter, and Justice Stone, in his concurring opinion, indicated that it should have. The majority of the Court, through Chief Justice Hughes, took the occasion, however, to stress that a sovereign power is capable of entering into obligations which remain "binding on the conscience of the sovereign" (at p. 354) and went so far as to state that the attempt to override the obligation of the Government bonds was unconstitutional as "beyond the congressional power." Thus, by a parity of reasoning, the Federal Government's fiscal undertakings under the Delaware River Basin compact would be obligations with strong moral and political claims on all future Congresses, even though, to be sure, they may be judicially unenforceable because the United States may refuse to be sued in the courts, even by one of the States (*Kansas v. United States*, 204 U.S. 331 (1907)).

B. The compact does not limit congressional power to make laws under the Constitution.

There appear to be no instances in which the Federal Government was charged with having "contracted away" powers other than fiscal powers; in cases involving contracts by State governments, the Su-

preme Court has consistently held State governments bound by contracts involving some limitations on their fiscal powers (*Fletcher v. Peck*, 6 Cranch 87 (1810); *New Jersey v. Wilson*, 7 Cranch 164 (1812); *Piqua Branch of Bank of Ohio v. Knoop*, 16 How. 369 (1854); *Von Hoffman v. City of Quincy*, 4 Wall. 535 (1867)). In cases involving the States' "police power," however, the results indicate that a State cannot contract away substantive powers to regulate public health, safety, and morals (*Stone v. Mississippi*, 101 U.S. 814 (1880); *Boston Beer Co. v. Massachusetts*, 97 U.S. 25 (1878); *Northwestern Fertilizing Co. v. Hyde Park*, 97 U.S. 659 (1878); *Butcher's Union Co. v. Crescent City Co.*, 111 U.S. 746 (1884)); or to surrender the power of eminent domain (*Georgia v. Chattanooga*, 264 U.S. 472 (1924); *West River Bridge Co. v. Dix*, 6 How. 507 (1848); *Pennsylvania Hospital v. Philadelphia*, 245 U.S. 20 (1917)).

The question whether a compact between Virginia and Kentucky, consented to by act of Congress, could operate as a restriction upon Congress in providing for the building of a bridge across a navigable river was raised in *Pennsylvania v. The Wheeling and Belmont Bridge Co.* (18 How. 421 U.S. (1856)). In holding that the consent of Congress did not restrict congressional power to legislate inconsistently concerning navigation and the regulation of interstate commerce, the Court said:

"The question here is whether or not the compact can operate as a restriction upon the power of Congress under the Constitution to regulate commerce among the several States? Clearly not. Otherwise Congress and two States would possess the power to modify and alter the Constitution itself" (at p. 433).

Thus, we conclude that the Delaware River Basin compact could not diminish the Federal Government's paramount powers over the regulation of navigation or interstate commerce. Since the compact itself excludes these powers and duties of Congress from its scope, as it properly should, the absence of a binding commitment in this area is not likely to be regarded as a practical obstacle, and it certainly is not a constitutional one.

#### CONCLUSION

There is clear congressional power to make laws for the development of the Delaware River Basin, and the creation of a Federal-State compact is a proper method for the exercise of the power. It is clear, also, that Congress may delegate Federal administrative and regulatory duties to the proposed compact agency. It is, accordingly, our opinion that there are no constitutional objections to the proposed Delaware River Basin compact.

Respectfully submitted.

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Prof. Noel T. Dowling, Harlan Fiske Stone professor emeritus of constitutional law, Columbia Law School, has been consulted in the preparation of this memorandum and has examined the same; he has authorized the writers to state that he concurs in the opinions herein expressed.

87TH CONGRESS  
1ST SESSION

# H. J. RES. 225

[Report No. 854]

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## IN THE SENATE OF THE UNITED STATES

JULY 5 (legislative day, JULY 3), 1961

Read twice and referred to the Committee on the Judiciary

AUGUST 31, 1961

Reported by Mr. EASTLAND, with an amendment

AUGUST 31, 1961

Referred to the Committee on Interior and Insular Affairs under authority of  
the order of the Senate of July 7, 1961

[Omit the part struck through and insert the part printed in italic]

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## JOINT RESOLUTION

To grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes.

- 1       *Resolved by the Senate and House of Representatives*  
2   *of the United States of America in Congress assembled,*  
3   That the consent of Congress is hereby given to the States  
4   of Delaware, New Jersey, and New York, and the Com-  
5   monwealth of Pennsylvania, for the compact known as the  
6   Delaware River Basin compact, and the United States of  
7   America hereby enters into such compact, in the form as  
8   follows:



## PART I

## COMPACT

Whereas the signatory parties recognize the water and related resources of the Delaware basin as regional assets vested with local, state and national interests, for which they have a joint responsibility; and

Whereas the conservation, utilization, development, management and control of the water and related resources of the Delaware River Basin under a comprehensive multipurpose plan will bring the greatest benefits and produce the most efficient service in the public welfare; and

Whereas such a comprehensive plan administered by a basin-wide agency will provide effective flood damage reduction; conservation and development of ground and surface water supply for municipal, industrial and agricultural uses; development of recreational facilities in relation to reservoirs, lakes and streams; propagation of fish and game; promotion of related forestry, soil conservation and watershed projects; protection and aid to fisheries dependent upon water resources; development of hydroelectric power potentialities; improved navigation; control of the movement of salt water; abatement and control of stream pollution; and regulation of stream flows toward the attainment of these goals; and

Whereas decisions of the United States Supreme Court re-

1       lating to the waters of the basin have confirmed the  
2       interstate regional character of the water resources of the  
3       Delaware River Basin, and the United States Corps of  
4       Engineers has in a prior report on the Delaware River  
5       Basin (House Document 179, 73d Cong., 2nd Sess.)  
6       officially recognized the need for an interstate agency  
7       and the economies that can result from unified develop-  
8       ment and control of the water resources of the basin;  
9       and

10   Whereas the water resources of the basin are presently sub-  
11       ject to the duplicating, overlapping and uncoordinated  
12       administration of some 43 state agencies, 14 interstate  
13       agencies and 19 federal agencies which exercise a multi-  
14       plicity of powers and duties resulting in a splintering of  
15       authority and responsibilities; and

16   Whereas the joint advisory body known as the Interstate  
17       Commission on the Delaware River Basin (INCodel),  
18       created by the respective commissions or committee on  
19       Interstate Cooperation of the States of Delaware, New  
20       Jersey, New York and Pennsylvania, has on the basis  
21       of its extensive investigations, surveys and studies con-  
22       cluded that regional development of the Delaware River  
23       Basin is feasible, advisable and urgently needed; and has  
24       recommended that an interstate compact with federal  
25       participation be consummated to this end; and

1 Whereas the Congress of the United States and the executive  
2 branch of the government have recognized the national  
3 interest in the Delaware River Basin by authorizing  
4 and directing the Corps of Engineers, U.S. Department  
5 of the Army, to make a comprehensive survey and re-  
6 port on the water and related resources of the Delaware  
7 River Basin, enlisting the technical aid and planning  
8 participation of many federal, state and municipal agen-  
9 cies dealing with the waters of the basin, and in particu-  
10 lar the federal departments of Agriculture, Commerce,  
11 Health, Education and Welfare, Interior, and Federal  
12 Power Commission; and

13 Whereas some 22,000,000 people of the United States at  
14 present live and work in the region of the Delaware  
15 River Basin and its environs, and the government, em-  
16 ployment, industry and economic development of the  
17 entire region and the health, safety and general welfare  
18 of its population are and will continue to be vitally  
19 affected by the use, conservation, and management and  
20 control of the water and related resources of the Dela-  
21 ware River Basin; and

22 Whereas demands upon the waters and related resources of  
23 the basin are expected to mount rapidly because of the



1        anticipated increase in the population of the region pro-  
2        jected to reach 30,000,000 by 1980 and 40,000,000 by  
3        2010, and because of the anticipated increase in indus-  
4        trial growth projected to double by 1980; and

5        Whereas water resources planning and development is tech-  
6        nical, complex and expensive, and has often required  
7        fifteen to twenty years from the conception to the com-  
8        pletion of a large dam and reservoir; and

9        Whereas the public interest requires that facilities must be  
10       ready and operative when needed, to avoid the catas-  
11       trophe of unexpected floods or prolonged drought, and  
12       for other purposes; and

13       Whereas the Delaware River Basin Advisory Committee, a  
14       temporary body constituted by the governors of the  
15       four basin states and the mayors of the cities of New  
16       York and Philadelphia, has prepared a draft of an inter-  
17       state-federal compact for the creation of a basin agency,  
18       and the signatory parties desire to effectuate the pur-  
19       poses thereof; Now therefore

20       The states of Delaware, New Jersey and New York and  
21       the Commonwealth of Pennsylvania, and the United States  
22       of America hereby solemnly covenant and agree with each  
23       other, upon the enactment of concurrent legislation by the

1 Congress of the United States and by the respective state  
2 legislatures, having the same effect as this Part, as follows:

3 ARTICLE 1

4 SHORT TITLE, DEFINITIONS, PURPOSE AND LIMITATIONS

5 Section 1.1 Short Title. This act shall be known and  
6 may be cited as the Delaware River Basin Compact.

7 1.2 Definitions. For the purposes of this compact,  
8 and of any supplemental or concurring legislation enacted  
9 pursuant thereto, except as may be otherwise required by  
10 the context:

11 (a) "Basin" shall mean the area of drainage into the  
12 Delaware River and its tributaries, including Delaware Bay;

13 (b) "Commission" shall mean the Delaware River  
14 Basin Commission created and constituted by this compact;

15 (c) "Compact" shall mean Part I of this act;

16 (d) "Cost" shall mean direct and indirect expenditures,  
17 commitment, and net induced adverse effects, whether or  
18 not compensated for, used or incurred in connection with  
19 the establishment, acquisition, construction, maintenance and  
20 operation of a project;

21 (e) "Facility" shall mean any real or personal prop-  
22 erty, within or without the basin, and improvements thereof  
23 or thereon, and any and all rights of way, water, water  
24 rights, plants, structures, machinery and equipment, ac-  
25 quired, constructed, operated or maintained for the bene-

1 ficial use of water resources or related land uses including,  
2 without limiting the generality of the foregoing, any and all  
3 things and appurtenances necessary, useful or convenient for  
4 the control, collection, storage, withdrawal, diversion, re-  
5 lease, treatment, transmission, sale or exchange of water;  
6 or for navigation thereon, or the development and use of  
7 hydroelectric energy and power, and public recreational  
8 facilities; or the propagation of fish and wildlife; or to con-  
9 serve and protect the water resources of the basin or any  
10 existing or future water supply source, or to facilitate any  
11 other uses of any of them;

12 (f) "Federal government" shall mean the government  
13 of the United States of America, and any appropriate branch,  
14 department, bureau or division thereof, as the case may be;

15 (g) "Project" shall mean any work, service or activity  
16 which is separately planned, financed, or identified by the  
17 commission, or any separate facility undertaken or to be  
18 undertaken within a specified area, for the conservation, util-  
19 ization, control, development or management of water re-  
20 sources which can be established and utilized independently  
21 or as an addition to an existing facility, and can be con-  
22 sidered as a separate entity for purposes of evaluation;

23 (h) "Signatory party" shall mean a state or common-  
24 wealth party to this compact, and the federal government;

25 (i) "Water resources" shall include water and related



1 natural resources in, on, under, or above the ground, includ-  
2 ing related uses of land, which are subject to beneficial use,  
3 ownership or control.

4 1.3 Purpose and Findings. The legislative bodies of  
5 the respective signatory parties hereby find and declare:

6 (a) The water resources of the basin are affected with a  
7 local, state, regional and national interest and their planning,  
8 conservation, utilization, development, management and con-  
9 trol, under appropriate arrangements for intergovernmental  
10 cooperation, are public purposes of the respective signatory  
11 parties.

12 (b) The water resources of the basin are subject to the  
13 sovereign right and responsibility of the signatory parties,  
14 and it is the purpose of this compact to provide for a joint  
15 exercise of such powers of sovereignty in the common in-  
16 terests of the people of the region.

17 (c) The water resources of the basin are functionally  
18 inter-related, and the uses of these resources are interdepend-  
19 ent. A single administrative agency is therefore essential  
20 for effective and economical direction, supervision and coor-  
21 dination of efforts and programs of federal, state and local  
22 governments and of private enterprise.

23 (d) The water resources of the Delaware River Basin,  
24 if properly planned and utilized, are ample to meet all  
25 presently projected demands, including existing and added

1 diversions in future years and ever increasing economies  
2 and efficiencies in the use and reuse of water resources can  
3 be brought about by comprehensive planning, programming  
4 and management.

5 (e) In general, the purposes of this compact are to  
6 promote interstate comity; to remove causes of present and  
7 future controversy; to make secure and protect present de-  
8 velopments within the states; to encourage and provide for  
9 the planning, conservation, utilization, development, manage-  
10 ment and control of the water resources of the basin; to  
11 provide for cooperative planning and action by the signatory  
12 parties with respect to such water resources; and to apply  
13 the principle of equal and uniform treatment to all water  
14 users who are similarly situated and to all users of related  
15 facilities, without regard to established political boundaries.

16 1.4 Powers of Congress; Withdrawal. Nothing in  
17 this compact shall be construed to relinquish the functions,  
18 powers or duties of the Congress of the United States with  
19 respect to the control of any navigable waters within the  
20 basin, nor shall any provision hereof be construed in deroga-  
21 tion of any of the constitutional powers of the Congress to  
22 regulate commerce among the states and with foreign na-  
23 tions. The power and right of the Congress to withdraw  
24 the federal government as a party to this compact or to

1 revise or modify the terms, conditions and provisions under  
2 which it may remain a party by amendment, repeal or  
3 modification of any federal statute applicable thereto is  
4 recognized by the signatory parties.

5       1.5 Existing Agencies; Construction. It is the purpose  
6 of the signatory parties to preserve and utilize the functions,  
7 powers and duties of existing offices and agencies of gov-  
8 ernment to the extent not inconsistent with the compact,  
9 and the commission is authorized and directed to utilize  
10 and employ such offices and agencies for the purpose of this  
11 compact to the fullest extent it finds feasible and advan-  
12 tageous.

13       1.6 Duration of Compact.

14       (a) The duration of this compact shall be for an initial  
15 period of 100 years from its effective date, and it shall be  
16 continued for additional periods of 100 years if not later  
17 than 20 years nor sooner than 25 years prior to the termina-  
18 tion of the initial period or any succeeding period none of  
19 the signatory states, by authority of an act of its legislature,  
20 notifies the commission of intention to terminate the com-  
21 pact at the end of the then current 100 year period.

22       (b) In the event that this compact should be terminated  
23 by operation of paragraph (a) above, the commission shall  
24 be dissolved, its assets and liabilities transferred, and its cor-



1 porate affairs wound up, in such manner as may be provided  
2 by act of the Congress.

3 ARTICLE 2

4 ORGANIZATION AND AREA

5 Section 2.1 Commission Created. The Delaware River  
6 Basin Commission is hereby created as a body politic  
7 and corporate, with succession for the duration of this com-  
8 pact, as an agency and instrumentality of the governments of  
9 the respective signatory parties.

10 2.2 Commission Membership. The commission shall  
11 consist of the Governors of the signatory states, ex officio,  
12 and one commissioner to be appointed by the President of the  
13 United States to serve during the term of office of the  
14 President.

15 2.3 Alternates. Each member of the commission  
16 shall appoint an alternate to act in his place and stead, with  
17 authority to attend all meetings of the commission, and with  
18 power to vote in the absence of the member. Unless other-  
19 wise provided by law of the signatory party for which he is  
20 appointed, each alternate shall serve during the term of the  
21 member appointing him, subject to removal at the pleasure  
22 of the member. In the event of a vacancy in the office of  
23 alternate, it shall be filled in the same manner as an original  
24 appointment for the unexpired term only.

1        2.4 Compensation. Members of the commission and  
2 alternates shall serve without compensation but may be re-  
3 imbursed for necessary expenses incurred in and incident to  
4 the performance of their duties.

5        2.5 Voting Power. Each member shall be entitled to  
6 one vote on all matters which may come before the commis-  
7 sion. No action of the commission shall be taken at any  
8 meeting unless a majority of the membership shall vote in  
9 favor thereof.

10       2.6 Organization and Procedure. The commission  
11 shall provide for its own organization and procedure, and  
12 shall adopt rules and regulations governing its meetings and  
13 transactions. It shall organize annually by the election of a  
14 chairman and vice-chairman from among its members. It  
15 shall provide by its rules for the appointment by each mem-  
16 ber in his discretion of an advisor to serve without compensa-  
17 tion, who may attend all meetings of the commission and its  
18 committees.

19       2.7 Jurisdiction of the Commission. The commission  
20 shall have, exercise and discharge its functions, powers and  
21 duties within the limits of the basin, except that it may in its  
22 discretion act outside the basin whenever such action may be  
23 necessary or convenient to effectuate its powers or duties  
24 within the basin, or to sell or dispose of water, hydroelectric  
25 power or other water resources within or without the basin.

1 The commission shall exercise such power outside the basin  
2 only upon the consent of the state in which it proposes to  
3 act.

### 4 ARTICLE 3

#### 5 POWERS AND DUTIES OF THE COMMISSION

6 Section 3.1 Purpose and Policy. The commission shall  
7 develop and effectuate plans, policies and projects relating to  
8 the water resources of the basin. It shall adopt and promote  
9 uniform and coordinated policies for water conservation, con-  
10 trol, use and management in the basin. It shall encourage  
11 the planning, development and financing of water resources  
12 projects according to such plans and policies.

13 3.2 Comprehensive Plan, Program and Budgets. The  
14 commission shall, in accordance with Article 13 of this com-  
15 pact, formulate and adopt:

16 (a) A comprehensive plan, after consultation with water  
17 users and interested public bodies, for the immediate and  
18 long range development and uses of the water resources of  
19 the basin;

20 (b) A water resources program, based upon the com-  
21 prehensive plan, which shall include a systematic presenta-  
22 tion of the quantity and quality of water resources needs of  
23 the area to be served for such reasonably foreseeable period  
24 as the commission may determine, balanced by existing and  
25 proposed projects required to satisfy such needs, including



1 all public and private projects affecting the basin, together  
2 with a separate statement of the projects proposed to be  
3 undertaken by the commission during such period; and

4 (c) An annual current expense budget, and an annual  
5 capital budget consistent with the water resources program  
6 covering the commission's projects and facilities for the bud-  
7 get period.

8 3.3 Allocations, Diversions and Releases. The com-  
9 mission shall have the power from time to time as need  
10 appears, in accordance with the doctrine of equitable appor-  
11 tionment, to allocate the waters of the basin to and among  
12 the states signatory to this compact and to and among their  
13 respective political subdivisions, and to impose conditions,  
14 obligations and release requirements related thereto, subject  
15 to the following limitations:

16 (a) The commission, without the unanimous consent  
17 of the parties to the United States Supreme Court decree in  
18 New Jersey v. New York, 347 U.S. 995 (1954), shall not  
19 impair, diminish or otherwise adversely affect the diversions,  
20 compensating releases, rights, conditions, obligations, and  
21 provisions for the administration thereof as provided in said  
22 decree; provided, however, that after consultation with the  
23 river master under said decree the commission may find and  
24 declare a state of emergency resulting from a drought or  
25 catastrophe and it may thereupon by unanimous consent of

1 its members authorize and direct an increase or decrease in  
2 any allocation or diversion permitted or releases required by  
3 the decree, in such manner and for such limited time as may  
4 be necessary to meet such an emergency condition.

5 (b) No allocation of waters hereafter made pursuant to  
6 this section shall constitute a prior appropriation of the waters  
7 of the basin or confer any superiority of right in respect to the  
8 use of those waters, nor shall any such action be deemed to  
9 constitute an apportionment of the waters of the basin among  
10 the parties hereto; provided that this paragraph shall not be  
11 deemed to limit or restrict the power of the commission to  
12 enter into covenants with respect to water supply, with a dura-  
13 tion not exceeding the life of this compact, as it may deem  
14 necessary for the benefit or development of the water resources  
15 of the basin.

16 (c) Any proper party deeming itself aggrieved by action  
17 of the commission with respect to an out-of-basin diversion or  
18 compensating releases in connection therewith, notwithstand-  
19 ing the powers delegated to the commission by this compact  
20 may invoke the original jurisdiction of the United States Su-  
21 preme Court within one year after such action for an adjudica-  
22 tion and determination thereof de novo. Any other action of  
23 the commission pursuant to this section shall be subject to ju-  
24 dicial review in any court of competent jurisdiction.

25 3.4 Supreme Court Decree; Waivers. Each of the sig-

1 natory states and their respective political subdivisions, in con-  
2 sideration of like action by the others, and in recognition of  
3 reciprocal benefits, hereby waives and relinquishes any right,  
4 privilege or power it may have to apply for any modification  
5 of the terms of the decree of the United States Supreme  
6 Court in New Jersey v. New York, 347 U.S. 995 (1954)  
7 which would increase or decrease the diversions authorized  
8 or increase or decrease the releases required thereunder, ex-  
9 cept that a proceeding to modify such decree to increase  
10 diversions or compensating releases in connection with such  
11 increased diversions may be prosecuted by a proper party  
12 to effectuate rights, powers, duties and obligations under  
13 Section 3.3 of this compact, and except as may be required  
14 to effectuate the provisions of paragraphs III B 3 and V B  
15 of said decree.

16 3.5 Supreme Court Decree; Specific Limitations on  
17 Commission. Except as specifically provided in Sections  
18 3.3 and 3.4 of this article, nothing in this compact shall be  
19 construed in any way to impair, diminish or otherwise ad-  
20 versely affect the rights, powers, privileges, conditions and  
21 obligations contained in the decree of the United States  
22 Supreme Court in New Jersey v. New York, 347 U.S.  
23 995 (1954). To this end, and without limitation thereto,  
24 the commission shall not:

25 (a) Acquire, construct or operate any project or fa-



1 cility or make any order or take any action which would  
 2 impede or interfere with the rights, powers, privileges, con-  
 3 ditions or obligations contained in said decree;

4 (b) Impose or collect any fee, charge or assessment  
 5 with respect to diversions of waters of the basin permitted  
 6 by said decree;

7 (c) Exercise any jurisdiction, except upon consent of  
 8 all the parties to said decree, over the planning, design,  
 9 construction, operation or control of any projects, struc-  
 10 tures or facilities constructed or used in connection with  
 11 withdrawals, diversions and releases of waters of the basin  
 12 authorized by said decree or of the withdrawal, diversions  
 13 or releases to be made thereunder; or

14 (d) Serve as river master under said decree, except  
 15 upon consent of all the parties thereto.

16 3.6 General Powers. The commission may:

17 (a) Plan, design, acquire, construct, reconstruct, com-  
 18 plete, own, improve, extend, develop, operate and maintain  
 19 any and all projects, facilities, properties, activities and serv-  
 20 ices, determined by the commission to be necessary, con-  
 21 venient or useful for the purposes of this compact;

22 (b) Establish standards of planning, design and opera-  
 23 tion of all projects and facilities in the basin which affect  
 24 its water resources, including without limitation thereto

1 water and waste treatment plants, stream and lake recrea-  
2 tional facilities, trunk mains for water distribution, local flood  
3 protection works, small watershed management programs,  
4 and ground water recharging operations;

5 (c) Conduct and sponsor research on water resources,  
6 their planning, use, conservation, management, development,  
7 control and protection, and the capacity, adaptability and  
8 best utility of each facility thereof, and collect, compile, cor-  
9 relate, analyze, report and interpret data on water resources  
10 and uses in the basin, including without limitation thereto  
11 the relation of water to other resources, industrial water  
12 technology, ground water movement, relation between water  
13 price and water demand, and general hydrological condi-  
14 tions;

15 (d) Compile and coordinate systematic stream stage  
16 and ground water level forecasting data, and publicize such  
17 information when and as needed for water uses, flood warn-  
18 ing, quality maintenance or other purposes;

19 (e) Conduct such special ground water investigations,  
20 tests, and operations and compile such data relating thereto  
21 as may be required to formulate and administer the compre-  
22 hensive plan;

23 (f) Prepare, publish and disseminate information and  
24 reports with respect to the water problems of the basin and  
25 for the presentation of the needs, resources and policies of

1 the basin to executive and legislative branches of the signa-  
2 tory parties;

3 (g) Negotiate for such loans, grants, services or other  
4 aids as may be lawfully available from public or private  
5 sources to finance or assist in effectuating any of the purposes  
6 of this compact; and to receive and accept such aid upon  
7 such terms and conditions, and subject to such provisions  
8 for repayment as may be required by federal or state law or  
9 as the commission may deem necessary or desirable;

10 (h) Exercise such other and different powers as may be  
11 delegated to it by this compact or otherwise pursuant to law,  
12 and have and exercise all powers necessary or convenient to  
13 carry out its express powers or which may be reasonably  
14 implied therefrom.

15 3.7 Rates and Charges. The commission may from  
16 time to time after public notice and hearing fix, alter and  
17 revise rates, rentals, charges and tolls and classifications  
18 thereof, for the use of facilities which it may own or operate  
19 and for products and services rendered thereby, without  
20 regulation or control by any department, office or agency  
21 of any signatory party.

22 3.8 Referral and Review. No project having a sub-  
23 stantial effect on the water resources of the basin shall here-  
24 after be undertaken by any person, corporation or govern-  
25 mental authority unless it shall have been first submitted to



1 and approved by the commission. subject to the provisions  
2 of Sections 3.3 and 3.5. The commission shall approve a  
3 project whenever it finds and determines that such project  
4 would not substantially impair or conflict with the compre-  
5 hensive plan and may modify and approve as modified, or  
6 may disapprove any such project whenever it finds and  
7 determines that the project would substantially impair or  
8 conflict with such plan. The commission shall provide by  
9 regulation for the procedure of submission, review and con-  
10 sideration of projects, and for its determinations pursuant  
11 to this section. Any determination of the commission here-  
12 under shall be subject to judicial review in any court of  
13 competent jurisdiction.

14       3.9 Coordination and Cooperation. The commission  
15 shall promote and aid the coordination of the activities and  
16 programs of federal, state, municipal and private agencies  
17 concerned with water resources administration in the basin.  
18 To this end, but without limitation thereto, the commission  
19 may:

20       (a) Advise, consult, contract, financially assist, or other-  
21 wise cooperate with any and all such agencies;

22       (b) Employ any other agency or instrumentality of any  
23 of the signatory parties or of any political subdivision thereof,  
24 in the design, construction, operation and maintenance of

1 structures, and the installation and management of river con-  
2 trol systems, or for any other purpose;

3 (c) Develop and adopt plans and specifications for par-  
4 ticular water resources projects and facilities which so far as  
5 consistent with the comprehensive plan incorporate any sep-  
6 arate plans of other public and private organizations operat-  
7 ing in the basin, and permit the decentralized administration  
8 thereof;

9 (d) Qualify as a sponsoring agency under any federal  
10 legislation heretofore or hereafter enacted to provide finan-  
11 cial or other assistance for the planning, conservation, utili-  
12 zation, development, management or control of water  
13 resources.

14 3.10 Advisory Committees. The commission may con-  
15 stitute and empower advisory committees, which may be  
16 comprised of representatives of the public and of federal,  
17 state, county, and municipal governments, water resources  
18 agencies, water-using industries, water-interest groups, labor  
19 and agriculture.

## 20 ARTICLE 4

### 21 WATER SUPPLY

22 Section 4.1 Generally. The commission shall have  
23 power to develop, implement and effectuate plans and proj-  
24 ects for the use of the waters of the basin for domestic,

1 municipal, agricultural and industrial water supply. To this  
2 end, without limitation thereto, it may provide for, construct,  
3 acquire, operate and maintain dams, reservoirs and other  
4 facilities for utilization of surface and ground water resources,  
5 and all related structures, appurtenances and equipment on  
6 the river and its tributaries and at such off-river sites as it  
7 may find appropriate, and may regulate and control the use  
8 thereof.

9 4.2 Storage and Release of Waters.

10 (a) The commission shall have power to acquire, oper-  
11 ate and control projects and facilities for the storage and  
12 release of waters, for the regulation of flows and supplies of  
13 surface and ground waters of the basin, for the protection  
14 of public health, stream quality control, economic develop-  
15 ment, improvement of fisheries, recreation, dilution and  
16 abatement of pollution, the prevention of undue salinity and  
17 other purposes.

18 (b) No signatory party shall permit any augmentation  
19 of flow to be diminished by the diversion of any water of  
20 the basin during any period in which waters are being re-  
21 leased from storage under the direction of the commission  
22 for the purpose of augmenting such flow, except in cases



1 where such diversion is duly authorized by this compact,  
2 or by the commission pursuant thereto, or by the judgment,  
3 order or decree of a court of competent jurisdiction.

4 4.3 Assessable Improvements. The commission may  
5 undertake to provide stream regulation in the main stream  
6 or any tributary in the basin and may assess on an annual  
7 basis or otherwise the cost thereof upon water users or any  
8 classification of them specially benefited thereby to a meas-  
9 urable extent, provided that no such assessment shall exceed  
10 the actual benefit to any water user. Any such assessment  
11 shall follow the procedure prescribed by law for local im-  
12 provement assessments and shall be subject to judicial review  
13 in any court of competent jurisdiction.

14 4.4 Coordination. Prior to entering upon the execu-  
15 tion of any project authorized by this article, the commission  
16 shall review and consider all existing rights, plans and pro-  
17 grams of the signatory parties, their political subdivisions,  
18 private parties, and water users which are pertinent to such  
19 project, and shall hold a public hearing on each proposed  
20 project.

21 4.5 Additional Powers. In connection with any proj-  
22 ect authorized by this article, the commission shall have

1 power to provide storage, treatment, pumping and transmis-  
2 sion facilities, but nothing herein shall be construed to au-  
3 thorize the commission to engage in the business of distribut-  
4 ing water.

## 5 ARTICLE 5

### 6 POLLUTION CONTROL

7 Section 5.1 General Powers. The commission may  
8 undertake investigations and surveys, and acquire, construct,  
9 operate and maintain projects and facilities to control poten-  
10 tial pollution and abate or dilute existing pollution of the  
11 water resources of the basin. It may invoke as complainant  
12 the power and jurisdiction of water pollution abatement agen-  
13 cies of the signatory parties.

14 5.2 Policy and Standards. The commission may as-  
15 sume jurisdiction to control future pollution and abate ex-  
16 isting pollution in the waters of the basin, whenever it de-  
17 termines after investigation and public hearing upon due  
18 notice that the effectuation of the comprehensive plan so  
19 requires. The standard of such control shall be that pollu-  
20 tion by sewage or industrial or other waste originating within  
21 a signatory state shall not injuriously affect waters of the  
22 basin as contemplated by the comprehensive plan. The  
23 commission, after such public hearing may classify the waters  
24 of the basin and establish standards of treatment of sewage,  
25 industrial or other waste, according to such classes including

1 allowance for the variable factors of surface and ground  
2 waters, such as size of the stream, flow, movement, location,  
3 character, self-purification, and usage of the waters affected.  
4 After such investigation, notice and hearing the commission  
5 may adopt and from time to time amend and repeal rules,  
6 regulations and standards to control such future pollution  
7 and abate existing pollution, and to require such treatment  
8 of sewage, industrial or other waste within a time reason-  
9 able for the construction of the necessary works, as may be  
10 required to protect the public health or to preserve the  
11 waters of the basin for uses in accordance with the compre-  
12 hensive plan.

13       5.3 Cooperative Legislation and Administration. Each  
14 of the signatory parties covenants and agrees to prohibit  
15 and control pollution of the waters of the basin according  
16 to the requirements of this compact and to cooperate faith-  
17 fully in the control of future pollution in and abatement of  
18 existing pollution from the rivers, streams, and waters in the  
19 basin which flow through, under, into or border upon any of  
20 such signatory states, and in order to effect such object,  
21 agrees to enact any necessary legislation to enable each such  
22 party to place and maintain the waters of said basin in a  
23 satisfactory condition, available for safe and satisfactory use  
24 as public and industrial water supplies after reasonable



1 treatment, suitable for recreational usage, capable of main-  
2 taining fish and other aquatic life, free from unsightly or  
3 malodorous nuisances due to floating solids or sludge deposits  
4 and adaptable to such other uses as may be provided by the  
5 comprehensive plan.

6       5.4 Enforcement. The commission may, after investi-  
7 gation and hearing, issue an order or orders upon any person  
8 or public or private corporation, or other entity, to cease  
9 the discharge of sewage, industrial or other waste into waters  
10 of the basin which it determines to be in violation of such  
11 rules and regulations as it shall have adopted for the pre-  
12 vention and abatement of pollution. Any such order or  
13 orders may prescribe the date, including a reasonable time  
14 for the construction of any necessary works, on or before  
15 which such discharge shall be wholly or partially discon-  
16 tinued, modified or treated, or otherwise conformed to the  
17 requirements of such rules and regulations. Such order shall  
18 be reviewable in any court of competent jurisdiction. The  
19 courts of the signatory parties shall have jurisdiction to en-  
20 force against any person, public or private corporation, or  
21 other entity, any and all provisions of this Article or of any  
22 such order. The commission may bring an action in its own  
23 name in any such court of competent jurisdiction to compel  
24 compliance with any provision of this Article, or any rule

1 or regulation issued pursuant thereto or of any such order,  
2 according to the practice and procedure of the court.

3 5.5 Further Jurisdiction. Nothing in this compact shall  
4 be construed to repeal, modify or qualify the authority of  
5 any signatory party to enact any legislation or enforce any  
6 additional conditions and restrictions to lessen or prevent  
7 the pollution of waters within its jurisdiction.

## 8 ARTICLE 6

### 9 FLOOD PROTECTION

10 Section 6.1 General Powers. The commission may  
11 plan, design, construct and operate and maintain projects  
12 and facilities, as it may deem necessary or desirable for  
13 flood damage reduction. It shall have power to operate such  
14 facilities and to store and release waters on the Delaware  
15 River and its tributaries and elsewhere within the basin, in  
16 such manner, at such times, and under such regulations as  
17 the commission may deem appropriate to meet flood condi-  
18 tions as they may arise.

### 19 6.2 Flood Plain Zoning.

20 (a) The commission shall have power to adopt, amend  
21 and repeal recommended standards, in the manner provided  
22 by this section, relating to the nature and extent of the uses  
23 of land in areas subject to flooding by waters of the Delaware  
24 River and its tributaries. Such standards shall not be

1 deemed to impair or restrict the power of the signatory par-  
2 ties or their political subdivisions to adopt zoning and other  
3 land use regulations not inconsistent therewith.

4       (b) The commission may study and determine the na-  
5 ture and extent of the flood plains of the Delaware River and  
6 its tributaries. Upon the basis of such studies, it may es-  
7 tablish encroachment lines and delineate the areas subject to  
8 flood, including a classification of lands with reference to  
9 relative risk of flood and the establishment of standards for  
10 flood plain use which will safeguard the public health, safety  
11 and property. Prior to the adoption of any standards de-  
12 lineating such area or defining such use, the commission shall  
13 hold public hearings, in the manner provided by Article 14,  
14 with respect to the substance of such standards. At or be-  
15 fore such public hearings the proposed standards shall be  
16 available, and all interested persons shall be given an oppor-  
17 tunity to be heard thereon at the hearing. Upon the adop-  
18 tion and promulgation of such standards, the commission  
19 may enter into agreements to provide technical and financial  
20 aid to any municipal corporation for the administration and  
21 enforcement of any local land use ordinances or regulations  
22 giving effect to such standards.

23       6.3 Flood Lands Acquisition. The commission shall  
24 have power to acquire the fee or any lesser interest in lands



1 and improvements thereon within the area of a flood plain  
2 for the purpose of restricting the use of such property so  
3 as to minimize the flood hazard, converting property to uses  
4 appropriate to flood plain conditions, or preventing unwar-  
5 ranted constrictions that reduce the ability of the river chan-  
6 nel to carry flood water. Any such action shall be in accord  
7 with the standards adopted and promulgated pursuant to  
8 Section 6.2.

9 6.4 Flood and Stream Stage Warnings and Posting.

10 The commission may cause lands particularly subject to flood  
11 to be posted with flood hazard warnings, and may from time  
12 to time cause flood advisory notices to be published and cir-  
13 culated as conditions may warrant.

14 ARTICLE 7

15 WATERSHED MANAGEMENT

16 Section 7.1 Watersheds Generally. The commission  
17 shall promote sound practices of watershed management in  
18 the basin, including projects and facilities to retard runoff  
19 and waterflow and prevent soil erosion.

20 7.2 Soil Conservation and Forestry. The commission  
21 may acquire, sponsor or operate facilities and projects to  
22 encourage soil conservation, prevent and control erosion, and  
23 to promote land reclamation and sound forestry practices.

24 7.3 Fish and Wildlife. The commission may acquire,

1 sponsor or operate projects and facilities for the maintenance  
2 and improvement of fish and wildlife habitats related to  
3 the water resources of the basin.

#### 4 7.4 Cooperative Planning and Operation.

5 (a) The commission shall cooperate with the appro-  
6 priate agencies of the signatory parties and with other  
7 public and private agencies in the planning and effectua-  
8 tion of a coordinated program of facilities and projects  
9 authorized by this Article.

10 (b) The commission shall not operate any such project  
11 or facility unless it has first found and determined that no  
12 other suitable unit or agency of government is available to  
13 operate the same upon reasonable conditions, in accordance  
14 with the intent and purpose expressed in Section 1.5 of this  
15 compact.

### 16 ARTICLE 8

#### 17 RECREATION

18 Section 8.1 Development. The commission shall pro-  
19 vide for the development of water related public sports and  
20 recreational facilities. The commission on its own account  
21 or in cooperation with a signatory party, political subdivi-  
22 sion or any agency thereof, may provide for the construction,  
23 maintenance and administration of such facilities, subject to  
24 the provisions of Section 8.2 hereof.

#### 25 8.2 Cooperative Planning and Operation.

1       (a) The commission shall cooperate with the appro-  
2       priate agencies of the signatory parties and with other public  
3       and private agencies in the planning and effectuation of a  
4       coordinated program of facilities and projects authorized by  
5       this article.

6       (b) The commission shall not operate any such project  
7       or facility unless it has first found and determined that no  
8       other suitable unit or agency of government is available to  
9       operate the same upon reasonable conditions, in accordance  
10      with the intent and purpose expressed in Section 1.5 of this  
11      compact.

12      8.3 Operation and Maintenance. The commission,  
13      within limits prescribed by this article, shall:

14      (a) Encourage activities of other public agencies having  
15      water related recreational interests and assist in the coordina-  
16      tion thereof;

17      (b) Recommend standards for the development and  
18      administration of water related recreational facilities;

19      (c) Provide for the administration, operation and main-  
20      tenance of recreational facilities owned or controlled by the  
21      commission and for the letting and supervision of private  
22      concessions in accordance with this article.

23      8.4 Concessions. The commission shall after notice and  
24      public hearing provide by regulation for the award of con-  
25      tracts for private concessions in connection with recreational



1 facilities, including any renewal or extension thereof, upon  
2 sealed competitive bids after public advertisement therefor.

### 3 ARTICLE 9

#### 4 HYDROELECTRIC POWER

5 Section 9.1 Development. The waters of the Dela-  
6 ware River and its tributaries may be impounded and used  
7 by or under authority of the commission for the generation  
8 of hydroelectric power and hydroelectric energy, in accord-  
9 ance with the comprehensive plan.

10 9.2 Power Generation. The commission may develop  
11 and operate, or authorize to be developed and operated,  
12 dams and related facilities and appurtenances for the purpose  
13 of generating hydroelectric power and hydroelectric energy.

14 9.3 Transmission. The commission may provide facil-  
15 ities for the transmission of hydroelectric power and hydro-  
16 electric energy produced by it where such facilities are not  
17 otherwise available upon reasonable terms, for the purpose  
18 of wholesale marketing of power and nothing herein shall  
19 be construed to authorize the commission to engage in the  
20 business of direct sale to consumers.

21 9.4 Development Contracts. The Commission may  
22 after public notice and hearing enter into contracts on rea-  
23 sonable terms, consideration and duration under which  
24 public utilities or public agencies may develop hydroelectric

1 power and hydroelectric energy through the use of dams,  
2 related facilities and appurtenances.

3 9.5 Rates and Charges. Rates and charges fixed by  
4 the commission for power which is produced by its facilities  
5 shall be reasonable, nondiscriminatory, and just.

## 6 ARTICLE 10

### 7 REGULATION OF WITHDRAWALS AND DIVERSIONS

8 Section 10.1 Power of Regulation. The commission  
9 may regulate and control withdrawals and diversions from  
10 surface waters and ground waters of the basin, as provided  
11 by this article. The commission may enter into agreements  
12 with the signatory parties relating to the exercises of such  
13 power of regulation or control and may delegate to any of  
14 them such powers of the commission as it may deem neces-  
15 sary or desirable.

16 10.2 Determination of Protected Areas. The com-  
17 mission may from time to time after public hearing upon due  
18 notice determine and delineate such areas within the basin  
19 wherein the demands upon supply made by water users have  
20 developed or threaten to develop to such a degree as to create  
21 a water shortage or to impair or conflict with the require-  
22 ments or effectuation of the comprehensive plan, and any  
23 such areas may be designated as "protected areas." The

1 commission, whenever it determines that such shortage no  
2 longer exists, shall terminate the protected status of such  
3 area and shall give public notice of such termination.

4       10.3 Withdrawal Permits. In any protected areas so  
5 determined and delineated, no person, firm corporation or  
6 other entity shall divert or withdraw water for domestic, mu-  
7 nicipal, agricultural or industrial uses in excess of such quan-  
8 tities as the commission may prescribe by general regulation,  
9 except (i) pursuant to a permit granted under this article,  
10 or (ii) pursuant to a permit or approval heretofore granted  
11 under the laws of any of the signatory states.

12       10.4 Emergency. In the event of a drought or other  
13 condition which may cause an actual and immediate short-  
14 age of available water supply within the basin, or within any  
15 part thereof, the commission may, after public hearing, de-  
16 termine and delineate the area of such shortage and declare  
17 a water supply emergency therein. For the duration of such  
18 emergency as determined by the commission no person, firm,  
19 corporation or other public or private entity shall divert or  
20 withdraw water for any purpose, in excess of such quantities  
21 as the commission may prescribe by general regulation or  
22 authorize by special permit granted hereunder.

23       10.5 Standards. Permits shall be granted, modified or  
24 denied as the case may be so as to avoid such depletion of



1 the natural stream flows and ground waters in the protected  
2 area or in an emergency area as will adversely affect the  
3 comprehensive plan or the just and equitable interests and  
4 rights of other lawful users of the same source, giving due  
5 regard to the need to balance and reconcile alternative and  
6 conflicting uses in the event of an actual or threatened short-  
7 age of water of the quality required.

8       10.6 Judicial Review. The determinations and de-  
9 lineations of the commission pursuant to Section 10.2 and  
10 the granting, modification or denial of permits pursuant to  
11 Section 10.3 through 10.5 shall be subject to judicial review  
12 in any court of competent jurisdiction.

13       10.7 Maintenance of Records. Each state shall pro-  
14 vide for the maintenance and preservation of such records  
15 of authorized diversions and withdrawals and the annual  
16 volume thereof as the commission shall prescribe. Such  
17 records and supplementary reports shall be furnished to the  
18 commission at its request.

19       10.8 Existing State Systems. Whenever the commis-  
20 sion finds it necessary or desirable to exercise the powers  
21 conferred by this article any diversion or withdrawal per-  
22 mits authorized or issued under the laws of any of the signa-  
23 tory states shall be superseded to the extent of any conflict  
24 with the control and regulation exercised by the commission.

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## ARTICLE 11

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## INTERGOVERNMENTAL RELATIONS

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Section 11.1 Federal Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties; the following rules shall govern federal projects affecting the water resources of the basin, subject in each case to the provisions of Section 1.4 of this compact:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the commission in the comprehensive plan;

(c) Each federal agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section.

11.2 State and Local Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern projects

1 of the signatory states, their political subdivisions and public  
2 corporations affecting water resources of the basin:

3 (a) The planning of all projects related to powers dele-  
4 gated to the commission by this compact shall be undertaken  
5 in consultation with the commission;

6 (b) No expenditure or commitment shall be made for  
7 or on account of the construction, acquisition or operation of  
8 any project or facility unless it shall have first been included  
9 by the commission in the comprehensive plan;

10 (c) Each state and local agency otherwise authorized  
11 by law to plan, design, construct, operate or maintain any  
12 project or facility in or for the basin shall continue to have,  
13 exercise and discharge such authority, except as specifically  
14 provided by this section.

15 11.3 Reserved Taxing Powers of States. Each of the  
16 signatory parties reserves the right to levy, assess and col-  
17 lect fees, charges and taxes on or measured by the withdrawal  
18 or diversion of waters of the basin for use within the juris-  
19 dictions of the respective signatory parties.

20 11.4 Project Costs and Evaluation Standards. The  
21 commission shall establish uniform standards and procedures  
22 for the evaluation, determination of benefits, and cost alloca-  
23 tions of projects affecting the basin, and for the determina-  
24 tion of project priorities, pursuant to the requirements of the



1 comprehensive plan and its water resources program. The  
2 commission shall develop equitable cost sharing and reim-  
3 bursement formulas for the signatory parties including:

4 (a) Uniform and consistent procedures for the allocation  
5 of project costs among purposes included in multiple-pur-  
6 pose programs;

7 (b) Contracts and arrangements for sharing financial  
8 responsibility among and with signatory parties, public  
9 bodies, groups and private enterprise, and for the supervision  
10 of their performance;

11 (c) Establishment and supervision of a system of ac-  
12 counts for reimbursable purposes and directing the payments  
13 and charges to be made from such accounts;

14 (d) Determining the basis and apportioning amounts  
15 (i) of reimbursable revenues to be paid signatory parties or  
16 their political subdivisions, and (ii) of payments in lieu of  
17 taxes to any of them.

18 11.5 Cooperative Services. The commission shall  
19 furnish technical services, advice and consultation to author-  
20 ized agencies of the signatory parties with respect to the  
21 water resources of the basin, and each of the signatory  
22 parties pledges itself to provide technical and administrative  
23 services to the commission upon request, within the limits  
24 of available appropriations and to cooperate generally with  
25 the commission for the purposes of this compact, and the

1 cost of such services may be reimbursable whenever the  
2 parties deem appropriate.

## 3 ARTICLE 12

### 4 CAPITAL FINANCING

5 Section 12.1 Borrowing Power. The commission may  
6 borrow money for any of the purposes of this compact, and  
7 may issue its negotiable bonds and other evidences of in-  
8 debtedness in respect thereto. All such bonds and evidences  
9 of indebtedness shall be payable solely out of the properties  
10 and revenues of the commission without recourse to taxation.  
11 The bonds and other obligations of the commission, except as  
12 may be otherwise provided in the indenture under which  
13 they were issued, shall be direct and general obligations of  
14 the commission and the full faith and credit of the commis-  
15 sion are hereby pledged for the prompt payment of the debt  
16 service thereon and for the fulfillment of all other undertak-  
17 ings of the commission assumed by it to or for the benefit  
18 of the holders thereof.

19 12.2 Funds and Expenses. The purposes of this com-  
20 pact shall include without limitation thereto all costs of any  
21 project or facility or any part thereof, including interest dur-  
22 ing a period of construction and a reasonable time thereafter  
23 and any incidental expenses (legal, engineering, fiscal, finan-  
24 cial consultant and other expenses) connected with issuing  
25 and disposing of the bonds; all amounts required for the

1 creation of an operating fund, construction fund, reserve  
2 fund, sinking fund, or other special fund; all other expenses  
3 connected with the planning, design, acquisition, construc-  
4 tion, completion, improvement or reconstruction of any  
5 facility or any part thereof; and reimbursement of advances  
6 by the commission or by others for such purposes and for  
7 working capital.

### 8 12.3 Credit Excluded; Officers, State and Municipal.

9 The commission shall have no power to pledge the credit of  
10 any signatory party, or of any county or municipality, or  
11 to impose any obligation for payment of the bonds upon any  
12 signatory party or any county or municipality. Neither  
13 the commissioners nor any person executing the bonds  
14 shall be liable personally on the bonds of the commission  
15 or be subject to any personal liability or accountability by  
16 reason of the issuance thereof.

17 12.4 Funding and Refunding. Whenever the commis-  
18 sion deems it expedient, it may fund and refund its bonds  
19 and other obligations whether or not such bonds and obliga-  
20 tions have matured. It may provide for the issuance, sale  
21 or exchange of refunding bonds for the purpose of redeem-  
22 ing or retiring any bonds (including the payment of any  
23 premium, duplicate interest or cash adjustment required in  
24 connection therewith) issued by the commission or issued  
25 by any other issuing body, the proceeds of the sale of which



1 have been applied to any facility acquired by the commission  
2 or which are payable out of the revenues of any facility  
3 acquired by the commission. Bonds may be issued partly  
4 to refund bonds and other obligations then outstanding, and  
5 partly for any other purpose of the commission. All pro-  
6 visions of this compact applicable to the issuance of bonds  
7 are applicable to refunding bonds and to the issuance, sale or  
8 exchange thereof.

9       12.5 Bonds; Authorization Generally. Bonds and  
10 other indebtedness of the commission shall be authorized by  
11 resolution of the commission. The validity of the authoriza-  
12 tion and issuance of any bonds by the commission shall not  
13 be dependent upon nor affected in any way by: (i) the  
14 disposition of bond proceeds by the commission or by con-  
15 tract, commitment or action taken with respect to such pro-  
16 ceeds; or (ii) the failure to complete any part of the project  
17 for which bonds are authorized to be issued. The commis-  
18 sion may issue bonds in one or more series and may provide  
19 for one or more consolidated bond issues, in such principal  
20 amounts and with such terms and provisions as the commis-  
21 sion may deem necessary. The bonds may be secured by  
22 a pledge of all or any part of the property, revenues and  
23 franchises under its control. Bonds may be issued by the  
24 commission in such amount, with such maturities and in

1 such denominations and form or forms, whether coupon or  
2 registered, as to both principal and interest, as may be de-  
3 termined by the commission. The commission may provide  
4 for redemption of bonds prior to maturity on such notice  
5 and at such time or times and with such redemption pro-  
6 visions, including premiums, as the commission may  
7 determine.

#### 8 12.6 Bonds; Resolutions and Indentures Generally.

9 The commission may determine and enter into indentures  
10 providing for the principal amount, date or dates, maturities,  
11 interest rate, denominations, form, registration, transfer,  
12 interchange and other provisions of the bonds and coupons  
13 and the terms and conditions upon which the same shall be  
14 executed, issued, secured, sold, paid, redeemed, funded and  
15 refunded. The resolution of the commission authorizing any  
16 bond or any indenture so authorized under which the bonds  
17 are issued may include all such covenants and other pro-  
18 visions other than any restriction on the regulatory powers  
19 vested in the commission by this compact as the commission  
20 may deem necessary or desirable for the issue, payment,  
21 security, protection or marketing of the bonds, including  
22 without limitation covenants and other provisions as to the  
23 rates or amounts of fees, rents and other charges to be  
24 charged or made for use of the facilities; the use, pledge,  
25 custody, securing, application and disposition of such rev-

1 enues, of the proceeds of the bonds, and of any other moneys  
2 of the commission; the operation, maintenance, repair and  
3 reconstruction of the facilities and the amounts which may be  
4 expended therefor; the sale, lease or other disposition of the  
5 facilities; the insuring of the facilities and of the revenues  
6 derived therefrom; the construction or other acquisition of  
7 other facilities; the issuance of additional bonds or other in-  
8 debtedness; the rights of the bondholders and of any trustee  
9 for the bondholders upon default by the commission or other-  
10 wise; and the modification of the provisions of the indenture  
11 and of the bonds. Reference on the face of the bonds to such  
12 resolution or indenture by its date of adoption or the ap-  
13 parent date on the face thereof is sufficient to incorporate all  
14 of the provisions thereof and of this compact into the body  
15 of the bonds and their appurtenant coupons. Each taker  
16 and subsequent holder of the bonds or coupons, whether the  
17 coupons are attached to or detached from the bonds, has re-  
18 course to all of the provisions of the indenture and of this  
19 compact and is bound thereby.

20 12.7 Maximum Maturity. No bond or its terms shall  
21 mature in more than fifty years from its own date and in the  
22 event any authorized issue is divided into two or more series  
23 or divisions, the maximum maturity date herein authorized  
24 shall be calculated from the date on the face of each bond



1 separately, irrespective of the fact that different dates may be  
2 prescribed for the bonds of each separate series or division of  
3 any authorized issue.

4 12.8 Tax Exemption. All bonds issued by the com-  
5 mission under the provisions of this compact and the interest  
6 thereof shall at all times be free and exempt from all taxation  
7 by or under authority of any of the signatory parties, except  
8 for transfer, inheritance and estate taxes.

9 12.9 Interest. Bonds shall bear interest at a rate of  
10 not to exceed six percent per annum, payable annually or  
11 semi-annually.

12 12.10 Place of Payment. The commission may pro-  
13 vide for the payment of the principal and interest of bonds  
14 at any place or places within or without the signatory states,  
15 and in any specified lawful coin or currency of the United  
16 States of America.

17 12.11 Execution. The commission may provide for  
18 the execution and authentication of bonds by the manual,  
19 lithographed or printed facsimile signature of officers of the  
20 commission, and by additional authentication by a trustee or  
21 fiscal agent appointed by the commission. If any of the  
22 officers whose signatures or counter signatures appear upon  
23 the bonds or coupons cease to be officers before the delivery  
24 of the bonds or coupons, their signatures or counter signa-  
25 tures are nevertheless valid and of the same force and effect

1 as if the officers had remained in office until the delivery of  
2 the bonds and coupons.

3 12.12 Holding Own Bonds. The commission shall  
4 have power out of any funds available therefor to purchase  
5 its bonds and may hold, cancel or resell such bonds.

6 12.13 Sale. The commission may fix terms and con-  
7 ditions for the sale or other disposition of any authorized  
8 issue of bonds. The commission may sell bonds at less than  
9 their par or face value but no issue of bonds may be sold at  
10 an aggregate price below the par or face value thereof if  
11 such sale would result in a net interest cost to the commis-  
12 sion calculated upon the entire issue so sold of more than  
13 six percent per annum payable semi-annually, according to  
14 standard tables of bond values. All bonds issued and sold for  
15 cash pursuant to this act shall be sold on sealed proposals to  
16 the highest bidder. Prior to such sale, the commission shall  
17 advertise for bids by publication of a notice of sale not less  
18 than ten days prior to the date of sale, at least once in a  
19 newspaper of general circulation printed and published in  
20 New York City carrying municipal bond notices and de-  
21 voted primarily to financial news. The commission may  
22 reject any and all bids submitted and may thereafter sell the  
23 bonds so advertised for sale at private sale to any financially  
24 responsible bidder under such terms and conditions as it  
25 deems most advantageous to the public interest, but the bonds

1 shall not be sold at a net interest cost calculated upon the  
2 entire issue so advertised, greater than the lowest bid which  
3 was rejected. In the event the commission desires to issue  
4 its bonds in exchange for an existing facility or portion  
5 thereof, or in exchange for bonds secured by the revenues of  
6 an existing facility, it may exchange such bonds for the  
7 existing facility or portion thereof or for the bonds so se-  
8 cured, plus an additional amount of cash, without advertising  
9 such bonds for sale.

10       12.14 Negotiability. All bonds issued under the pro-  
11 visions of this compact are negotiable instruments, except  
12 when registered in the name of a registered owner.

13       12.15 Legal Investments. Bonds of the commission  
14 shall be legal investments for savings banks, fiduciaries and  
15 public funds in each of the signatory states.

16       12.16 Validation Proceedings. Prior to the issuance of  
17 any bonds, the commission may institute a special proceeding  
18 to determine the legality of proceedings to issue the bonds  
19 and their validity under the laws of any of the signatory  
20 parties. Such proceeding shall be instituted and prosecuted  
21 in rem and the judgment rendered therein shall be conclusive  
22 against all persons whomsoever and against each of the  
23 signatory parties.

24       12.17 Recording. No indenture need be recorded or  
25 filed in any public office, other than the office of the com-



1 mission. The pledge of revenues provided in any indenture  
2 shall take effect forthwith as provided therein and irrespec-  
3 tive of the date of receipt of such revenues by the commission  
4 or the indenture trustee. Such pledge shall be effective as  
5 provided in the indenture without physical delivery of the  
6 revenues to the commission or to the indenture trustee.

7       12.18 Pledged Revenues. Bond redemption and  
8 interest payments shall, to the extent provided in the resolu-  
9 tion or indenture, constitute a first, direct and exclusive  
10 charge and lien on all such rates, rents, tolls, fees and charges  
11 and other revenues and interest thereon received from the  
12 use and operation of the facility, and on any sinking or  
13 other funds created therefrom. All such rates, rents, tolls,  
14 fees, charges and other revenues, together with interest  
15 thereon, shall constitute a trust fund for the security and pay-  
16 ment of such bonds and except as and to the extent provided  
17 in the indenture with respect to the payment therefrom  
18 of expenses for other purposes including administration,  
19 operation, maintenance, improvements or extensions of the  
20 facilities or other purposes shall not be used or pledged for  
21 any other purpose so long as such bonds, or any of them,  
22 are outstanding and unpaid.

23       12.19 Remedies. The holder of any bond may for the  
24 equal benefit and protection of all holders of bonds similarly  
25 situated: (a) by mandamus or other appropriate proceed-

1 ings require and compel the performance of any of the duties  
2 imposed upon the commission or assumed by it, its officers,  
3 agents or employees under the provisions of any indenture,  
4 in connection with the acquisition, construction, operation,  
5 maintenance, repair, reconstruction or insurance of the fa-  
6 cilities, or in connection with the collection, deposit, invest-  
7 ment, application and disbursement of the rates, rents, tolls,  
8 fees, charges and other revenues derived from the operation  
9 and use of the facilities, or in connection with the deposit, in-  
10 vestment and disbursement of the proceeds received from  
11 the sale of bonds; or (b) by action or suit in a court of  
12 competent jurisdiction of any signatory party require the  
13 commission to account as if it were the trustee of an express  
14 trust, or enjoin any acts or things which may be unlawful  
15 or in violation of the rights of the holders of the bonds. The  
16 enumeration of such rights and remedies does not, however,  
17 exclude the exercise or prosecution of any other rights or  
18 remedies available to the holders of bonds.

19 12.20 Capital Financing by Signatory Parties; Guar-  
20 antees.

21 (a) The signatory parties will provide such capital funds  
22 required for projects of the commission as may be authorized  
23 by their respective statutes in accordance with a cost sharing  
24 plan prepared pursuant to Article 11 of this compact; but  
25 nothing in this section shall be deemed to impose any man-

1 datory obligation on any of the signatory parties other than  
2 such obligations as may be assumed by a signatory party in  
3 connection with a specific project or facility.

4 (b) Bonds of the commission, notwithstanding any  
5 other provision of this compact, may be executed and de-  
6 livered to any duly authorized agency of any of the signatory  
7 parties without public offering and may be sold and resold  
8 with or without the guarantee of such signatory party, sub-  
9 ject to and in accordance with the constitutions of the re-  
10 spective signatory parties.

11 (c) The commission may receive and accept, and the  
12 signatory parties may make, loans, grants, appropriations,  
13 advances and payments of reimbursable or non-reimbursable  
14 funds or property in any form for the capital or operating  
15 purposes of the commission.

## 16 ARTICLE 13

### 17 PLAN, PROGRAM AND BUDGETS

18 Section 13.1 Comprehensive Plan. The commission  
19 shall develop and adopt, and may from time to time review  
20 and revise, a comprehensive plan for the immediate and long  
21 range development and use of the water resources of the ba-  
22 sin. The plan shall include all public and private projects  
23 and facilities which are required, in the judgment of the  
24 commission, for the optimum planning, development, con-  
25 servation, utilization, management and control of the water



1 resources of the basin to meet present and future needs; pro-  
2 vided that the plan shall include any projects required to con-  
3 form with any present or future decree or judgment of any  
4 court of competent jurisdiction. The commission may adopt  
5 a comprehensive plan or any revision thereof in such part  
6 or parts as it may deem appropriate, provided that before the  
7 adoption of the plan or any part or revision thereof the com-  
8 mission shall consult with water users and interested public  
9 bodies and public utilities and shall consider and give due  
10 regard to the findings and recommendations of the various  
11 agencies of the signatory parties and their political subdivi-  
12 sions. The commission shall conduct public hearings with  
13 respect to the comprehensive plan prior to the adoption of the  
14 plan or any part or revision thereof.

15 13.2 Water Resources Program. The commission  
16 shall annually adopt a water resources program, based upon  
17 the comprehensive plan, consisting of the projects and facili-  
18 ties which the commission proposes to be undertaken by the  
19 commission and by other authorized governmental and  
20 private agencies, organizations and persons during the en-  
21 suing six years or such other reasonably foreseeable period as  
22 the commission may determine. The water resources pro-  
23 gram shall include a systematic presentation of:

24 (1) the quantity and quality of water resources needs for  
25 such period;

1       (2) the existing and proposed projects and facilities re-  
2       quired to satisfy such needs, including all public and private  
3       projects to be anticipated;

4       (3) a separate statement of the projects proposed to be  
5       undertaken by the commission during such period.

6       13.3 Annual Current Expense and Capital Budgets.

7       (a) The commission shall annually adopt a capital  
8       budget including all capital projects it proposes to undertake  
9       or continue during the budget period containing a statement  
10      of the estimated cost of each project and the method of  
11      financing thereof.

12      (b) The commission shall annually adopt a current  
13      expense budget for each fiscal year. Such budget shall in-  
14      clude the commission's estimated expenses for administra-  
15      tion, operation, maintenance and repairs, including a separate  
16      statement thereof for each project, together with its cost  
17      allocation. The total of such expenses shall be balanced by  
18      the commission's estimated revenues from all sources, includ-  
19      ing the cost allocations undertaken by any of the signatory  
20      parties in connection with any project. Following the  
21      adoption of the annual current expense budget by the com-  
22      mission, the executive director of the commission shall:

23      (1) certify to the respective signatory parties the amounts  
24      due in accordance with existing cost sharing established for  
25      each project; and

(2) transmit certified copies of such budget to the principal budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures. The amount required to balance the current expense budget in addition to the aggregate amount of item (1) above and all other revenues available to the commission shall be apportioned equitably among the signatory parties by unanimous vote of the commission, and the amount of such apportionment to each signatory party shall be certified together with the budget.

(c) The respective signatory parties covenant and agree to include the amounts so apportioned for the support of the current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the commission in quarterly installments during its fiscal year, provided that the commission may draw upon its working capital to finance its current expense budget pending remittances by the signatory parties.

21 ARTICLE 14

22 GENERAL PROVISIONS

23       Section 14.1   Auxiliary Powers of Commission; Func-  
24   tions of Commissioners.



1       (a) The commission, for the purposes of this compact,  
2 may:

3       (1) Adopt and use a corporate seal, enter into contracts,  
4 sue and be sued in all courts of competent jurisdiction;

5       (2) Receive and accept such payments, appropriations,  
6 grants, gifts, loans, advances and other funds, properties and  
7 services as may be transferred or made available to it by any  
8 signatory party or by any other public or private corporation  
9 or individual, and enter into agreements to make reimburse-  
10 ment for all or part thereof;

11       (3) Provide for, acquire and adopt detailed engineering,  
12 administrative, financial and operating plans and specifica-  
13 tions to effectuate, maintain or develop any facility or  
14 project;

15       (4) Control and regulate the use of facilities owned or  
16 operated by the commission;

17       (5) Acquire, own, operate, maintain, control, sell and  
18 convey real and personal property and any interest therein  
19 by contract, purchase, lease, license, mortgage or otherwise  
20 as it may deem necessary for any project or facility, includ-  
21 ing any and all appurtenances thereto necessary, useful or  
22 convenient for such ownership, operation, control, mainte-  
23 nance or conveyance;

1       (6) Have and exercise all corporate powers essential  
2 to the declared objects and purposes of the commission.

3       (b) The commissioners, subject to the provisions of this  
4 compact, shall:

5       (1) Serve as the governing body of the commission,  
6 and exercise and discharge its powers and duties except  
7 as otherwise provided by or pursuant to this compact;

8       (2) Determine the character of and the necessity for its  
9 obligations and expenditures and the manner in which they  
10 shall be incurred, allowed, and paid subject to any provi-  
11 sions of law specifically applicable to agencies or instru-  
12 mentalities created by compact;

13       (3) Provide for the internal organization and administra-  
14 tion of the commission;

15       (4) Appoint the principal officers of the commission  
16 and delegate to and allocate among them administrative  
17 functions, powers and duties;

18       (5) Create and abolish offices, employments and posi-  
19 tions as it deems necessary for the purposes of the commis-  
20 sion, and subject to the provisions of this article, fix and  
21 provide for the qualification, appointment, removal, term,  
22 tenure, compensation, pension and retirement rights of its  
23 officers and employees;

24       (6) Let and execute contracts to carry out the powers  
25 of the commission.

1        14.2 Regulations; Enforcement. The commission  
2 may:

3        (a) Make and enforce reasonable rules and regulations  
4 for the effectuation, application and enforcement of this com-  
5 pact; and it may adopt and enforce practices and schedules  
6 for or in connection with the use, maintenance and admin-  
7 istration of projects and facilities it may own or operate and  
8 any product or service rendered thereby; provided that any  
9 rule or regulation, other than one which deals solely with  
10 the internal management of the commission, shall be adopted  
11 only after public hearing and shall not be effective unless  
12 and until filed in accordance with the law of the respective  
13 signatory parties applicable to administrative rules and reg-  
14 ulations generally; and

15        (b) Designate any officer, agent or employee of the  
16 commission to be an investigator or watchman and such  
17 person shall be vested with the powers of a peace officer of  
18 the state in which he is duly assigned to perform his duties.

19        14.3 Tax Exemption. The commission, its property,  
20 functions, and activities shall be exempt from taxation by or  
21 under the authority of any of the signatory parties or any  
22 political subdivision thereof; provided that in lieu of prop-  
23 erty taxes the commission shall, as to specific projects, make  
24 payments to local taxing districts in annual amounts which  
25 shall equal the taxes lawfully assessed upon property for the



1 tax year next prior to its acquisition by the commission for  
2 a period of ten years. The nature and amount of such pay-  
3 ments shall be reviewed by the commission at the end of ten  
4 years, and from time to time thereafter, upon reasonable  
5 notice and opportunity to be heard to the affected taxing  
6 district, and the payments may be thereupon terminated or  
7 continued in such reasonable amount as may be necessary  
8 or desirable to take into account hardships incurred and bene-  
9 fits received by the taxing jurisdiction which are attributable  
10 to the project.

11 14.4 Meetings; Public Hearings; Records, Minutes.

12 (a) All meetings of the commission shall be open to  
13 the public.

14 (b) The commission shall conduct at least one public  
15 hearing prior to the adoption of the comprehensive plan,  
16 water resources program, annual capital and current expense  
17 budgets, the letting of any contract for the sale or other dis-  
18 position by the commission of hydroelectric energy or water  
19 resources to any person, corporation or entity, and in all  
20 other cases wherein this compact requires a public hearing.  
21 Such hearing shall be held upon at least ten days public  
22 notice given by posting at the offices of the commission. The  
23 commission shall also provide forthwith for distribution of  
24 such notice to the press and by the mailing of a copy thereof  
25 to any person who shall request such notices.

1 (c) The minutes of the commission shall be a public  
2 record open to inspection at its offices during regular business  
3 hours.

4 14.5 Officers Generally.

5 (a) The officers of the commission shall consist of an  
6 executive director and such additional officers, deputies and  
7 assistants as the commission may determine. The executive  
8 director shall be appointed and may be removed by the af-  
9 firmative vote of a majority of the full membership of the  
10 commission. All other officers and employees shall be ap-  
11 pointed by the executive director under such rules of pro-  
12 cedure as the commission may determine.

13 (b) In the appointment and promotion of officers and  
14 employees for the commission, no political, racial, religious  
15 or residence test or qualification shall be permitted or given  
16 consideration, but all such appointments and promotions  
17 shall be solely on the basis of merit and fitness. Any officer  
18 or employee of the commission who is found by the com-  
19 mission to be guilty of a violation of this section shall be  
20 removed from office by the commission.

21 14.6 Oath of Office. An oath of office in such form  
22 as the commission shall prescribe shall be taken, subscribed  
23 and filed with the commission by the executive director and  
24 by each officer appointed by him not later than fifteen days  
25 after the appointment.

1       14.7 Bond. Each officer shall give such bond and in  
2 such form and amount as the commission may require for  
3 which the commission may pay the premium.

4       14.8 Prohibited Activities.

5       (a) No commissioner, officer or employee shall:

6       (1) be financially interested, either directly or indi-  
7 rectly, in any contract, sale, purchase, lease or transfer of  
8 real or personal property to which the commission is a party;

9       (2) solicit or accept money or any other thing of value  
10 in addition to the compensation or expenses paid him by the  
11 commission for services performed within the scope of his  
12 official duties;

13       (3) offer money or any thing of value for or in considera-  
14 tion of obtaining an appointment, promotion or privilege  
15 in his employment with the commission.

16       (b) Any officer or employee who shall willfully violate  
17 any of the provisions of this section shall forfeit his office or  
18 employment.

19       (c) Any contract or agreement knowingly made in  
20 contravention of this section is void.

21       (d) Officers and employees of the commission shall be  
22 subject in addition to the provisions of this section to such  
23 criminal and civil sanctions for misconduct in office as may



1 be imposed by federal law and the law of the signatory state  
2 in which such misconduct occurs.

3 14.9 Purchasing. Contracts for the construction, re-  
4 construction or improvement of any facility when the ex-  
5 penditure required exceeds ten thousand dollars and contracts  
6 for the purchase of services, supplies, equipment and mate-  
7 rials when the expenditure required exceeds two thousand  
8 five hundred dollars shall be advertised and let upon sealed  
9 bids to the lowest responsible bidder. Notice requesting such  
10 bids shall be published in a manner reasonably likely to at-  
11 tract prospective bidders, which publication shall be made  
12 at least ten days before bids are received and in at least  
13 two newspapers of general circulation in the basin. The  
14 commission may reject any and all bids and readvertise in  
15 its discretion. If after rejecting bids the commission deter-  
16 mines and resolves that in its opinion the supplies, equip-  
17 ment and materials may be purchased at a lower price in the  
18 open market, the commission may give each responsible  
19 bidder an opportunity to negotiate a price and may proceed  
20 to purchase the supplies, equipment and materials in the open  
21 market at a negotiated price which is lower than the lowest  
22 rejected bid of a responsible bidder, without further ob-  
23 servance of the provisions requiring bids or notice. The com-

1 mission shall adopt rules and regulations to provide for pur-  
2 chasing from the lowest responsible bidder when sealed  
3 bids, notice and publication are not required by this section.  
4 The commission may suspend and waive the provisions of  
5 this section requiring competitive bids whenever:

6 (1) the purchase is to be made from or the contract to be  
7 made with the federal or any state government or any agency  
8 or political subdivision thereof or pursuant to any open end  
9 bulk purchase contract of any of them;

10 (2) the public exigency requires the immediate delivery  
11 of the articles or performance of the service;

12 (3) only one source of supply is available;

13 (4) the equipment to be purchased is of a technical na-  
14 ture and the procurement thereof without advertising is nec-  
15 essary in order to assure standardization of equipment and  
16 interchangeability of parts in the public interest; or

17 (5) services are to be provided of a specialized or pro-  
18 fessional nature.

19 14.10 Insurance. The commission may self-insure  
20 or purchase insurance and pay the premiums therefor against  
21 loss or damage to any of its properties; against liability for  
22 injury to persons or property; and against loss of revenue  
23 from any cause whatsoever. Such insurance coverage shall

1 be in such form and amount as the commission may deter-  
2 mine, subject to the requirements of any agreement arising  
3 out of the issuance of bonds by the commission.

4 14.11 Annual Independent Audit.

5 (a) As soon as practical after the closing of the fiscal  
6 year, an audit shall be made of the financial accounts of  
7 the commission. The audit shall be made by qualified certi-  
8 fied public accountants selected by the commission, who have  
9 no personal interest direct or indirect in the financial affairs  
10 of the commission or any of its officers or employees. The  
11 report of audit shall be prepared in accordance with accepted  
12 accounting practices and shall be filed with the chairman and  
13 such other officers as the commission shall direct. Copies  
14 of the report shall be distributed to each commissioner and  
15 shall be made available for public distribution.

16 (b) Each signatory party by its duly authorized officers  
17 shall be entitled to examine and audit at any time all of the  
18 books, documents, records, files and accounts and all other  
19 papers, things or property of the commission. The repre-  
20 sentatives of the signatory parties shall have access to all  
21 books, documents, records, accounts, reports, files and all  
22 other papers, things or property belonging to or in use by  
23 the commission and necessary to facilitate the audit and



1 they shall be afforded full facilities for verifying transactions  
2 with the balances or securities held by depositories, fiscal  
3 agents and custodians.

4 (c) The financial transactions of the commission shall  
5 be subject to audit by the general accounting office in ac-  
6 cordance with the principles and procedures applicable to  
7 commercial corporate transactions and under such rules and  
8 regulations as may be prescribed by the comptroller general  
9 of the United States. The audit shall be conducted at the  
10 place or places where the accounts of the commission are  
11 kept.

12 (d) Any officer or employee who shall refuse to give  
13 all required assistance and information to the accountants se-  
14 lected by the commission or to the authorized officers of any  
15 signatory party or who shall refuse to submit to them for  
16 examination such books, documents, records, files, accounts,  
17 papers, things or property as may be requested shall forfeit  
18 his office.

19 14.12 Reports. The commission shall make and publish  
20 an annual report to the legislative bodies of the signatory  
21 parties and to the public reporting on its programs, opera-  
22 tions and finances. It may also prepare, publish and dis-  
23 tribute such other public reports and informational materials  
24 as it may deem necessary or desirable.

1        14.13 Grants, Loans or Payments by States or Politi-  
2 cal Subdivisions.

3        (a) Any or all of the signatory parties or any political  
4 subdivision thereof may:

5        (1) Appropriate to the commission such funds as may  
6 be necessary to pay preliminary expenses such as the ex-  
7 penses incurred in the making of borings, and other studies  
8 of subsurface conditions, in the preparation of contracts for  
9 the sale of water and in the preparation of detailed plans  
10 and estimates required for the financing of a project;

11        (2) Advance to the commission, either as grants or  
12 loans, such funds as may be necessary or convenient to  
13 finance the operation and management of or construction by  
14 the commission of any facility or project;

15        (3) Make payments to the commission for benefits  
16 received or to be received from the operation of any of  
17 the projects or facilities of the commission.

18        (b) Any funds which may be loaned to the commission  
19 either by a signatory party or a political subdivision thereof  
20 shall be repaid by the commission through the issuance  
21 of bonds or out of other income of the commission, such  
22 repayment to be made within such period and upon such  
23 terms as may be agreed upon between the commission and  
24 the signatory party or political subdivision making the loan.

1        14.14    Condemnation Proceedings.

2        (a)    The commission shall have the power to acquire  
3    by condemnation the fee or any lesser interest in lands,  
4    lands lying under water, development rights in land, ripar-  
5    ian rights, water rights, waters and other real or personal  
6    property within the basin for any project or facility author-  
7    ized pursuant to this compact. This grant of power of  
8    eminent domain includes but is not limited to the power to  
9    condemn for the purposes of this compact any property  
10   already devoted to a public use, by whomsoever owned or  
11   held, other than property of a signatory party and any  
12   property held, constructed, operated or maintained in con-  
13   nection with a diversion authorized by a United States  
14   Supreme Court decree. Any condemnation of any property  
15   or franchises owned or used by a municipal or privately  
16   owned public utility, unless the affected public utility facility  
17   is to be relocated or replaced, shall be subject to the au-  
18   thority of such state board, commission or other body as  
19   may have regulatory jurisdiction over such public utility.

20        (b)    Such power of condemnation shall be exercised  
21   in accordance with the provisions of any federal law appli-  
22   cable to the commission; provided that if there is no such  
23   applicable federal law, condemnation proceedings shall be  
24   in accordance with the provisions of such general state con-



1 demnation law as may be in force in the signatory state in  
2 which the property is located.

3 (c) Any award or compensation for the taking of  
4 property pursuant to this article shall be paid by the com-  
5 mission, and none of the signatory parties nor any other  
6 agency, instrumentality or political subdivision thereof shall  
7 be liable for such award or compensation.

8 14.15 Conveyance of Lands and Relocation of Public  
9 Facilities.

10 (a) The respective officers, agencies, departments, com-  
11 missions or bodies having jurisdiction and control over real  
12 and personal property owned by the signatory parties are  
13 authorized and empowered to transfer and convey in accord-  
14 ance with the laws of the respective parties to the commis-  
15 sion any such property as may be necessary or convenient to  
16 the effectuation of the authorized purposes of the commission.

17 (b) Each political subdivision of each of the signatory  
18 parties is authorized and empowered, notwithstanding any  
19 contrary provision of law, to grant and convey to the com-  
20 mission, upon the commission's request, any real property  
21 or any interest therein owned by such political subdivision in-  
22 cluding lands lying under water and lands already devoted to  
23 public use which may be necessary or convenient to the ef-  
24 fectuation of the authorized purposes of the commission.

1       (c) Any highway, public utility or other public facility  
2 which will be dislocated by reason of a project deemed neces-  
3 sary by the commission to effectuate the authorized purposes  
4 of this compact shall be relocated and the cost thereof shall  
5 be paid in accordance with the law of the state in which the  
6 facility is located; provided that the cost of such relocation  
7 payable by the commission shall not in any event exceed the  
8 expenditure required to serve the public convenience and  
9 necessity.

10       14.16 Rights of Way. Permission is hereby granted  
11 to the commission to locate, construct and maintain any  
12 aqueducts, lines, pipes, conduits and auxiliary facilities au-  
13 thorized to be acquired, constructed, owned, operated, or  
14 maintained by the commission in, over, under or across any  
15 streets and highways now or hereafter owned, opened or  
16 dedicated to or for public use, subject to such reasonable con-  
17 ditions as the highway department of the signatory party  
18 may require.

19       14.17 Penal Sanction. Any person, association, or  
20 corporation who violates or attempts or conspires to violate  
21 any provision of this compact or any rule, regulation or order  
22 of the commission duly made, promulgated or issued pur-  
23 suant to the compact in addition to any other remedy,  
24 penalty or consequence provided by law shall be punishable  
25 as may be provided by statute of any of the signatory parties

1 within which the offense is committed; provided that in the  
2 absence of such provision any such person, association or  
3 corporation shall be liable to a penalty of not less than \$50  
4 nor more than \$1,000 for each such offense to be fixed by  
5 the court which the commission may recover in its own name  
6 in any court of competent jurisdiction, and in a summary  
7 proceeding where available under the practice and procedure  
8 of such court. For the purposes of this section in the event  
9 of a continuing offense each day of such violation, attempt  
10 or conspiracy shall constitute a separate offense.

11 14.18 Tort Liability. The commission shall be re-  
12 sponsible for claims arising out of the negligent acts or  
13 omissions of its officers, agents and employees only to the  
14 extent and subject to the procedures prescribed by law gen-  
15 erally with respect to officers, agents and employees of the  
16 government of the United States.

17 14.19 Effect on Riparian Rights. Nothing contained  
18 in this compact shall be construed as affecting or intending  
19 to affect or in any way to interfere with the law of the respec-  
20 tive signatory parties relating to riparian rights.

21 14.20 Amendments and Supplements. Amendments  
22 and supplements to this compact to implement the purposes  
23 thereof may be adopted by legislative action of any of the  
24 signatory parties concurred in by all of the others.

25 14.21 Construction and Severability. The provisions



1 of this act and of agreements thereunder shall be severable  
2 and if any phrase, clause, sentence or provision of this com-  
3 pact or such agreement is declared to be unconstitutional  
4 or the applicability thereof to any signatory party, agency  
5 or person is held invalid, the constitutionality of the remain-  
6 der of this compact or such agreement and the applicability  
7 thereof to any other signatory party, agency, person or cir-  
8 cumstance shall not be affected thereby. It is the legis-  
9 lative intent that the provisions of this compact be reason-  
10 ably and liberally construed.

11       14.22 Effective Date; Execution. This compact shall  
12 become binding and effective thirty days after the enactment  
13 of concurring legislation by the federal government, the  
14 states of Delaware, New Jersey and New York, and the  
15 Commonwealth of Pennsylvania. The compact shall be  
16 signed and sealed in six duplicate original copies by the  
17 respective chief executives of the signatory parties. One  
18 such copy shall be filed with the Secretary of State of each  
19 of the signatory parties or in accordance with the laws of  
20 the state in which the filing is made, and one copy shall be  
21 filed and retained in the archives of the commission upon its  
22 organization. The signatures shall be affixed and attested  
23 under the following form:

IN WITNESS WHEREOF, and in evidence of the adoption and enactment into law of this compact by the Congress and legislatures, respectively, of the signatory parties, the President of the United States and the respective Governors do hereby, in accordance with authority conferred by law, sign this compact in six duplicate original copies, as attested by the respective secretaries of state, and have caused the seals of the United States and of the respective states to be hereunto affixed this                      day of

, 19 .

## PART II

### ARTICLE 15

#### EFFECTUATION

~~15.1~~ Reservations. In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

(a) That no provision of Section 3.7 of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the Basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the Compact;

1 or to impose any charges with respect to commercial naviga-  
2 tion within the Basin, jurisdiction over which is reserved to  
3 the Federal government: *Provided*, That this paragraph  
4 shall be applicable to the extent not inconsistent with Section  
5 1.4 of this Compact;

6 (b) That nothing contained in the Compact shall be  
7 deemed to restrict the executive powers of the President in  
8 the event of a national emergency;

9 (c) That, notwithstanding the provisions of Article 2,  
10 section 2.2 of the Compact, the member of the commission  
11 appointed by the President of the United States and his  
12 alternate shall serve at the pleasure of the President;

13 (d) That nothing contained in the Compact shall be  
14 construed as impairing or in any manner affecting the appli-  
15 cability to all Federal funds budgeted and appropriated for  
16 use by the commission, of such authority over budgetary and  
17 appropriation matters as the President and Congress may  
18 have with respect to agencies in the Executive Branch of the  
19 Federal Government;

20 (e) That nothing contained in the Compact shall be  
21 construed as exempting from federal taxation the interest  
22 on any bonds issued by the commission except to the same  
23 extent that interest on state bonds is or may continue to be  
24 free or exempt from federal taxation under applicable  
25 federal law;



1       ~~(f)~~ That the Congress reserves the power and right to  
2 revise or modify the terms, conditions and provisions under  
3 which the United States may remain a party to the Compact;

4       ~~(g)~~ That no provision of the compact shall be construed  
5 to relinquish the functions, powers or duties of the Congress  
6 of the United States over any matters committed to it by  
7 the Constitution of the United States;

8       ~~(h)~~ That notwithstanding the provisions of section 2  
9 of this Act, the commission shall be subject to the provi-  
10 sions of the Act of June 30, 1936, 49 Stat. 2036, as  
11 amended, (U.S. Code, Title 41, secs. 35 through 45),  
12 the Act of March 3, 1931, 46 Stat. 1494, as amended (U.S.  
13 Code, Title 40, secs. 276a and 276a-1); and to the provi-  
14 sions of the regulations of the Secretary of Labor issued  
15 pursuant to the Act of June 13, 1934, 48 Stat. 948, as  
16 amended (U.S. Code, Title 40, sec. 287e);

17       ~~(i)~~ That the provisions of section 8.4 of Article 8  
18 of the Compact shall not be construed to apply to facili-  
19 ties operated pursuant to any other federal law;

20       ~~(j)~~ That, notwithstanding any other provision of this  
21 act, nothing contained in the Compact shall be construed as  
22 superseding or limiting the functions, under any other law,  
23 of the Surgeon General of the United States Public Health  
24 Service, or of the Public Health Service, or of any other  
25 officer or agency of the United States, relating to water

1 pollution; provided that the exercise of such functions shall  
2 not limit the authority of the commission to control, prevent,  
3 or abate water pollution;

4       (k) That all Acts and parts of Acts inconsistent with  
5 any provision of this joint resolution are hereby amended  
6 for the purpose of this joint resolution to the extent necessary  
7 to carry out the provisions of this joint resolution: *Provided,*  
8 *however,* That no act of the commission shall have the effect  
9 of repealing, modifying or amending any federal law;

10       (l) That for purposes of the Act of June 25, 1948, 62  
11 Stat. 982, as amended (Title 28, U.S. Code, chapter 171;  
12 and sections 1346(b) and 240(b)) and the Act of March 3,  
13 1887, 24 Stat. 505, as amended (Title 28, U.S. Code, sec-  
14 tions 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411,  
15 2412, 2501), and the Act of June 11, 1946, 60 Stat. 237, as  
16 amended (Title 5, U.S. Code, sections 1001 through 1011,  
17 Title 50 App. U.S. Code, section 1900), the commission  
18 shall not be considered a Federal agency;

19       (m) That the officers and employees of the commission  
20 (other than the United States member, alternate United  
21 States member, and advisors, and personnel employed by  
22 the United States member under direct Federal appropria-  
23 tion) shall not be deemed to be, for any purpose, officers or

1 employees of the United States or to become entitled at any  
2 time by reason of employment by the commission to any  
3 compensation or benefit payable or made available by the  
4 United States solely and directly to its officers or employees;

5     ~~(n)~~ That neither the Compact nor this joint resolution  
6 shall be deemed to enlarge the authority of any Federal  
7 agency other than the commission to participate in or to  
8 provide funds for projects or activities in the Delaware River  
9 Basin;

10     ~~(o)~~ That the United States district courts shall have  
11 original jurisdiction of all cases or controversies arising under  
12 the Compact, and this Act and any case or controversy so  
13 arising initiated in a State Court shall be removable to the  
14 appropriate United States district court in the manner pro-  
15 vided by § 1446, Title 28, U.S.C. Nothing contained in  
16 the Compact or elsewhere in this Act shall be construed as  
17 a waiver by the United States of its immunity from suit;

18     ~~(p)~~ That the right to alter, amend, or repeal this joint  
19 resolution is hereby expressly reserved. The right is hereby  
20 reserved to the Congress or any of its standing committees  
21 to require the disclosure and furnishing of such information  
22 and data by the Delaware River Basin Compact Commis-



1 sion as is deemed appropriate by the Congress or any such  
2 committee;

3       ~~(q)~~ That the President is authorized to take such action  
4 as may be necessary and proper, in his discretion, to effectuate the Compact and the initial organization and operation of  
5 the commission thereunder;  
6

7       ~~(r)~~ That the provisions of sections 2.4 and 2.7 of  
8 Article 2 of the Compact notwithstanding, the United States  
9 member, alternate United States member, and advisors there  
10 referred to may be paid compensation by the United States,  
11 such compensation to be fixed by the President at the  
12 rates which he shall deem to prevail in respect to comparable officers in the executive branch;  
13

14       ~~(s)~~ That executive departments and other agencies  
15 of the executive branch of the Federal Government shall  
16 cooperate with and furnish appropriate assistance to the  
17 United States Member. Such assistance shall include the  
18 furnishing of services and facilities and may include the detailing of personnel to the United States Member. Appropriations are hereby authorized as necessary for the carrying  
19 out of the functions of the United States Member, including  
20 appropriations for the employment of personnel by the  
21 United States Member;  
22  
23

1        ~~(t)~~ That the commissioner appointed by the president  
2 may, at intervals of not less than six years, suspend any  
3 provision of the comprehensive plan which substantially  
4 affects the administration of any statute of the United States,  
5 and for the duration of such suspension the provision shall  
6 not be applied under Sec. 3.8 or Sec. 11.1 of the compact  
7 to any other federal department, agency or instrumentality.  
8 Such suspension may be made effective by notice given at  
9 a regular meeting of the commission. Reinstatement of a  
10 suspended provision may be made effective at any time by  
11 like notice; and

12        ~~(u)~~ That nothing contained in the Compact shall be  
13 construed as in any manner impairing or affecting the licens-  
14 ing and regulatory powers of any other officer, agency or  
15 instrument of the United States: *Provided*, That any exercise  
16 of such licensing or regulatory powers in the Delaware River  
17 Basin shall not substantially conflict with any portion of the  
18 comprehensive plan adopted pursuant to section 13.1 of the  
19 compact, except as the comprehensive plan or any part  
20 thereof may be suspended pursuant to paragraph "t" of this  
21 section.

22        15.2 Effective Date: This Act shall take effect imme-  
23 diately.

## PART II

## ARTICLE 15

## RESERVATIONS

15.1 In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

(a) No provision of Section 3.7 of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the Basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the Compact; or to impose any charges with respect to commercial navigation within the Basin, jurisdiction over which is reserved to the Federal Government: Provided, That this paragraph shall be applicable to the extent not inconsistent with Section 1.4 of this Compact.

(b) Nothing contained in the Compact shall be deemed to restrict the executive powers of the President in the event of a national emergency.

(c) Notwithstanding the provisions of Article 2, section 2.2 of the Compact, the member of the commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President.

(d) Nothing contained in the Compact shall be con-



1 *strued as impairing or in any manner affecting the applica-*  
2 *bility to all Federal funds budgeted and appropriated for*  
3 *use by the Commission, of such authority over budgetary and*  
4 *appropriation matters as the President and Congress may*  
5 *have with respect to agencies in the Executive Branch of the*  
6 *Federal Government.*

7       *(e) Except to the same extent that state bonds are or*  
8 *may continue to be free or exempt from Federal taxation*  
9 *under the internal revenue laws of the United States, nothing*  
10 *contained in the Compact shall be construed as freeing or*  
11 *exempting from internal revenue taxation in any manner*  
12 *whatsoever any bonds issued by the Commission, their trans-*  
13 *fer, or the income therefrom (including any profits made on*  
14 *the sale thereon).*

15       *(f) Nothing contained in the Compact shall be con-*  
16 *strued to obligate the United States legally or morally to pay*  
17 *the principal or interest on any bonds issued by the Delaware*  
18 *River Basin Commission.*

19       *(g) Notwithstanding the provisions of section 11.5 or*  
20 *any other provision of the Compact, the furnishing of tech-*  
21 *nical services to the Commission by agencies of the executive*  
22 *branch of the Government of the United States is pledged*  
23 *only to the extent that the respective agencies shall from time*  
24 *to time agree thereto or to the extent that the President may*  
25 *from time to time direct such agencies to perform such serv-*

1 ices for the Commission. Nothing in the Compact shall be  
2 deemed to require the United States to furnish administrative  
3 services or facilities for carrying out functions of the Com-  
4 mission except to the extent that the President may direct.

5 (h) All laborers and mechanics employed by contractors  
6 or subcontractors in the construction, alteration or repair,  
7 including painting and decorating, of projects, buildings  
8 and works which are undertaken by the Commission or  
9 are financially assisted by it, shall be paid wages at rates  
10 not less than those prevailing on similar construction in the  
11 locality so determined by the Secretary of Labor in accord-  
12 ance with the Davis-Bacon Act, as amended (40 U.S.C.  
13 276a-276a-5), and every such employee shall receive com-  
14 pensation at a rate not less than one and one-half times his  
15 basic rate of pay for all hours worked in any workweek  
16 in excess of eight hours in any workday or forty hours in  
17 any workweek, as the case may be. A provision stating the  
18 minimum wages thus determined and the requirement that  
19 overtime be paid as above provided shall be set out in each  
20 project advertisement for bids and in each bid proposal form  
21 and shall be made a part of the contract covering the project.  
22 The Secretary of Labor shall have, with respect to the admin-  
23 istration and enforcement of the labor standards specified in  
24 this provision, the supervisory, investigatory and other au-  
25 thority and functions set forth in Reorganization Plan Num-

bered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

(i) Contracts for the manufacture or furnishing of materials, supplies, articles and equipment with the Commission which are in excess of \$10,000 shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.).

(j) Notwithstanding any other provision of this Act, nothing contained in this Act or in the Compact shall be construed as superseding or limiting the functions, under any other law, of the Secretary of Health, Education, and Welfare or of any other officer or agency of the United States, relating to water pollution: Provided, That the exercise of such functions shall not limit the authority of the Commission to control, prevent, or abate water pollution.

(k) The provisions of section 8.4 of Article 8 of the Compact shall not be construed to apply to facilities operated pursuant to any other Federal law.

(l) For purposes of the Act of June 25, 1948, 62 Stat. 982, as amended (Title 28, U.S. Code, chapter 171, and sections 1346(b) and 240(b) and the Act of March 3, 1887, 24 Stat. 505, as amended (Title 28, U.S. Code, sections 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412, 2501), and the Act of June 11, 1946, 60 Stat. 237, as



1 amended (Title 5, U.S. Code, sections 1001 and 1011,  
2 Title 50 App. U.S. Code, section 1900), the Commission  
3 shall not be considered a Federal agency.

4 (m) The officers and employees of the Commission (other  
5 than the United States member, alternate United States  
6 member, and advisors, and personnel employed by the United  
7 States member under direct Federal appropriation) shall  
8 not be deemed to be, for any purpose, officers or employees of  
9 the United States or to become entitled at any time by rea-  
10 son of employment by the Commission to any compensation  
11 or benefit payable or made available by the United States  
12 solely and directly to its officers or employees.

13 (n) Neither the Compact nor this Act shall be deemed  
14 to enlarge the authority of any Federal agency other than  
15 the Commission to participate in or to provide funds for  
16 projects or activities in the Delaware River Basin.

17 (o) The United States district courts shall have original  
18 jurisdiction of all cases or controversies arising under the  
19 Compact, and this Act and any case or controversy so arising  
20 initiated in a State Court shall be removable to the appro-  
21 priate United States district court in the manner provided  
22 by § 1446, Title 28 U.S.C. Nothing contained in the Com-  
23 pact or elsewhere in this Act shall be construed as a waiver  
24 by the United States of its immunity from suit.

25 (p) The right to alter, amend, or repeal this Act is hereby

1 expressly reserved. The right is hereby reserved to the Con-  
2 gress or any of its standing committees to require the dis-  
3 closure and furnishing of such information and data by the  
4 Delaware River Basin Compact Commission as is deemed  
5 appropriate by the Congress or any such committee.

6 (q) The provisions of section 2.4 and 2.6 of Article 2  
7 of the Compact notwithstanding, the member and alternate  
8 member appointed by the President and advisor there referred  
9 to may be paid compensation by the United States, such  
10 compensation to be fixed by the President at the rates which  
11 he shall deem to prevail in respect to comparable officers  
12 in the executive branch.

13 (r) 1. Nothing contained in this Act or in the Com-  
14 pact shall impair or affect the constitutional authority of the  
15 United States or any of its powers, rights, functions, or  
16 jurisdiction under other existing or future legislation in  
17 and over the area or waters which are the subject of  
18 the Compact including projects of the Commission: Pro-  
19 vided, That whenever a comprehensive plan, or any part  
20 or revision thereof, has been adopted with the concurrence  
21 of the member appointed by the President, the exercise of  
22 any powers conferred by law on any officer, agency or  
23 instrumentality of the United States with regard to water  
24 and related land resources in the Delaware River Basin  
25 shall not substantially conflict with any such portion of

1 such comprehensive plan and the provisions of Section 3.8  
2 and Article 11 of the Compact shall be applicable to the  
3 extent necessary to avoid such substantial conflict: Pro-  
4 vided further, That whenever the President shall find and  
5 determine that the national interest so requires, he may  
6 suspend, modify or delete any provision of the comprehen-  
7 sive plan to the extent that it affects the exercise of any  
8 powers, rights, functions, or jurisdiction conferred by law  
9 on any officer, agency or instrumentality of the United States  
10 other than the Commission. Such action shall be taken by  
11 executive order in which such finding and determination  
12 shall be set forth.

13 2. For the purposes of paragraph 1 hereof, concurrence  
14 by the member appointed by the President shall be presumed  
15 unless within 60 days after notice to him of adoption of the  
16 comprehensive plan, or any part or revision thereof, he shall  
17 file with the Commission notice of his nonconcurrence. Each  
18 concurrence of the member appointed by the President in the  
19 adoption of the comprehensive plan or any part or revision  
20 thereof may be withdrawn by notice filed with the Commission  
21 at any time between the first and sixtieth day of the sixth  
22 year after the initial adoption of the comprehensive plan  
23 and of every sixth year thereafter.

24 (s) In the event that any phrase, clause, sentence or pro-  
25 vision of Section 1.4 of Article 1 of the Compact, is de-



1 *clared to be unconstitutional under the constitution of any*  
 2 *of the signatory parties, or the applicability thereof to any*  
 3 *signatory party, agency or person is held invalid by a court*  
 4 *of last resort of competent jurisdiction, the United States*  
 5 *shall cease to be a party to the Compact, except to the extent*  
 6 *that the President deems remaining a party necessary and*  
 7 *proper to protect the national interest, and shall cease to be*  
 8 *bound by the terms thereof.*

9 *(t) In making sales or leases of hydroelectric power gen-*  
 10 *erated pursuant to Article 9 of the Compact, preference shall*  
 11 *be given to public bodies and cooperatives so defined in sec-*  
 12 *tion 3 of chapter 720 of the Act of August 20, 1937, 50 Stat.*  
 13 *733 (Title 16, U.S. Code, section 832b).*

14 *(u) All Acts or parts of Acts inconsistent with the pro-*  
 15 *visions of this Act are hereby amended for the purpose of this*  
 16 *Act to the extent necessary to carry out the provisions of this*  
 17 *Act: Provided, however, That no act of the Commission shall*  
 18 *have the effect of repealing, modifying or amending any Fed-*  
 19 *eral law.*

#### 20 EFFECTUATION

21 *15.2 (a) The President is authorized to take such action*  
 22 *as may be necessary and proper, in his discretion, to effectu-*  
 23 *ate the Compact and the initial organization and operation*  
 24 *of the Commission thereunder.*

25 *(b) Executive departments and other agencies of the*

1 *executive branch of the Federal Government shall cooperate*  
2 *with and furnish appropriate assistance to the United States*  
3 *member. Such assistance shall include the furnishing of*  
4 *services and facilities and may include the detailing of per-*  
5 *sonnel to the United States member. Appropriations are*  
6 *hereby authorized as necessary for the carrying out of the*  
7 *functions of the United States member, including appropria-*  
8 *tions for the employment of personnel by the United States*  
9 *member.*

10       15.3 *Effective Date: This Act shall take effect immedi-*  
11 *ately.*

Passed the House of Representatives June 29, 1961.

Attest:

RALPH R. ROBERTS,

*Clerk.*





[Report No. 854]

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## JOINT RESOLUTION

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To grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes.

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JULY 5 (legislative day, JULY 3), 1961

Read twice and referred to the Committee on the Judiciary

AUGUST 31, 1961

Reported with an amendment

AUGUST 31, 1961

Referred to the Committee on Interior and Insular Affairs







# Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF  
BUDGET AND FINANCE  
(For information only;  
should not be quoted  
or cited)

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For actions of September 8, 1961  
87th-1st, No. 157

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**HIGHLIGHTS:** Senate debated Mexican farm labor bill. Senate committee reported 30-year retirement bill. Sens. Javits and Keating opposed enactment of national milk sanitation standards bill.

## SENATE

1. **FARM LABOR.** Began debate on H. R. 2010, to extend and amend the Mexican farm labor program (pp. 17593, 17603-28, 17639-42; 17644). (See Digest 129 for a summary of the provisions of the bill as reported.) Agreed to an amendment by Sen. Jordan to provide that workers recruited under the program shall not be subject to any Federal or State tax levied to provide illness or disability benefits for them (p. 17608). Sen. Keating submitted an amendment he intends to propose to the bill, to provide that before Mexican workers can be employed, efforts must be made to attract domestic workers by offering them conditions of employment comparable to those offered Mexicans (pp. 17626-7). Pending at adjournment was an amendment by Sen. McCarthy to provide that no Mexican worker recruited under the program shall be made available to any employer or permitted to remain in the employ of any employer unless the employer offers and pays such worker wages at least equivalent to 90 percent of the average farm wage in the State in which the area of employment is located, or 90 percent of the national farm wage average, whichever is lesser (pp. 17605-28, 17638-42). Agreed to a unanimous-consent request by Sen. Mansfield that on Mon., Sept. 11, debate on the McCarthy and Keating amendments shall be limited to 20 minutes (p. 17607).



2. PERSONNEL. The Post Office and Civil Service Committee reported with amendment S. 188, to permit civil service employees to retire after 30 years' service (S. Rept. 909). p. 17499

The Post Office and Civil Service Committee reported without amendment H. R. 2555, to authorize pay with respect to civilian employees of the U. S. in cases of emergency evacuations, and to consolidate the laws governing allotments and assignment of pay by such employees (S. Rept. 910). p. 17499

Received from the Civil Service Commission a proposed bill "to provide for the payment of compensation and restoration of employment benefits to certain Federal officers and employees improperly deprived thereof"; to Post Office and Civil Service Committee. p. 17499

3. PUBLIC LANDS. The Agriculture and Forestry Committee reported the following bills: p. 17499

H. R. 3879, without amendment, to authorize the Secretary of Agriculture to convey to Wyoming for agricultural purposes the SCS Farson Pilot Farm in Sweetwater County, Wyo. (S. Rept. 906).

H. R. 3920, without amendment, to authorize the exchange of a parcel of land at the Agricultural Research Center (S. Rept. 907).

H. R. 4682, without amendment, to authorize the Secretary of Agriculture to sell and convey certain tracts of forest land in Iowa to the State (S. Rept. 905).

H. R. 6193, without amendment, to authorize the Secretary of Agriculture to convey a tract of forest land in Wyoming to Fremont County (S. Rept. 904).

4. WATER RESOURCES. The Public Works Committee voted to report (but did not actually report) with amendment S. 856, to grant the consent of Congress to the Delaware River Basin compact. p. D829

Received a Regional Chamber of Commerce Council, Middletown, N. Y., resolution favoring the compact. p. 17499

5. DISARMAMENT AGENCY. Passed, 73 to 14, <sup>with amendments</sup> S. 2180, to provide for the establishment of a United States Disarmament Agency for World Peace and Security. pp. 17517-68, 17572-9, 17585, 17589-93, 17642-4

6. MILK STANDARDS. Sens. Javits and Keating <sup>opposed</sup> enactment of legislation to provide for the establishment of national milk sanitation standards for the interstate shipment of milk and inserted several items on the matter. pp. 17579-84

7. EDUCATION. The "Daily Digest" states that the Labor and Public Welfare Committee "ordered favorably reported with amendments S. 1241, authorizing Federal financial assistance for institutions of higher education (the principal amendment would adopt as a new title IV to the bill the text of S. 1140, to provide a program of financial assistance to the States for the construction of public community colleges)." p. D829

At the request of Sen. Mansfield, H. R. 9000, to extend for two additional years the provisions of Public Laws 815 and 874, 81st Congress (regarding aid for schools in federally impacted areas), and the National Defense Education Act of 1958, was taken off the calendar and referred to the Committee on Labor and Public Welfare. p. 17502

Began consideration of S. 2393, to extend for one year the authority for Federal assistance for the construction and operation of schools in federally impacted areas. pp. 17644-5



30, 1961 (with an accompanying report); to the Committee on Armed Services.

**PUBLICATION OF NOTICE OF PROPOSED DISPOSITION OF CERTAIN CASTOR OIL**

A letter from the Administrator, General Services Administration, Washington, D.C., transmitting, pursuant to law, a copy of a notice to be published in the Federal Register of a proposed disposition of approximately 155,676,000 pounds of castor oil now held in the national stockpile (with an accompanying paper); to the Committee on Armed Services.

**PAYMENT OF CERTAIN CLAIMS PRESENTED BY GOVERNMENT OF THE POLISH PEOPLE'S REPUBLIC**

A letter from the Secretary of State, transmitting a draft of proposed legislation to authorize the Secretary of the Treasury to effect the payment of certain claims presented by the Government of the Polish People's Republic against the United States (with accompanying papers); to the Committee on Foreign Relations.

**REPORT ON REVIEW OF SELECTED ACTIVITIES OF FEDERAL-AID HIGHWAY PROGRAM IN STATES OF MAINE, NEW HAMPSHIRE, AND VERMONT**

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of selected activities of the Federal-aid highway program in the States of Maine, New Hampshire, and Vermont, Bureau of Public Roads, Department of Commerce, dated August 1961 (with an accompanying report); to the Committee on Government Operations.

**AUDIT REPORT ON HELIUM OPERATIONS OF THE BUREAU OF MINES**

A letter from the Assistant Comptroller General of the United States, transmitting, pursuant to law, an audit report on helium operations of the Bureau of Mines, Department of the Interior, March 31, 1960 (with an accompanying report); to the Committee on Government Operations.

**BACK PAY ACT OF 1961**

A letter from the Chairman, U.S. Civil Service Commission, transmitting a draft of proposed legislation to provide for the payment of compensation and restoration of employment benefits to certain Federal officers and employees improperly deprived thereof, and for other purposes (with accompanying papers); to the Committee on Post Office and Civil Service.

**PROCEEDINGS OF 40TH MEETING OF CONVENTION OF AMERICAN INSTRUCTORS OF THE DEAF**

A letter from the president, Gallaudet College, Washington, D.C., transmitting, pursuant to law, a copy of the proceedings of the 40th meeting of the American Instructors of the Deaf, held at Oregon School for the Deaf, Salem, Oreg., June 25-30, 1961 (with an accompanying document); to the Committee on Rules and Administration.

**DISPOSITION OF EXECUTIVE PAPERS**

A letter from the Administrator, General Services Administration, Washington, D.C., transmitting, pursuant to law, a report of the Archivist of the United States on a list of papers and documents on the files of several departments and agencies of the Government which are not needed in the conduct of business and have no permanent value or historical interest, and requesting action looking to their disposition (with accompanying papers); to a Joint Select Committee on the Disposition of Papers in the Executive Departments.

The VICE PRESIDENT appointed Mr. JOHNSTON and Mr. CARLSON members of the committee on the part of the Senate.

**PETITIONS AND MEMORIALS**

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

**By the VICE PRESIDENT:**

A resolution adopted by the 27th biennial supreme convention of the Order Sons of Italy in America, at Washington, D.C., relating to certain amendments of the Immigration and Naturalization Act; to the Committee on the Judiciary.

A resolution adopted by the National Baptist Convention of America, Inc., at Kansas City, Mo., favoring the enactment of House Joint Resolution 110, for commemoration of the work of Dr. George Washington Carver; to the Committee on the Judiciary.

**DELAWARE RIVER BASIN COMPACT—RESOLUTION**

Mr. JAVITS. Mr. President, I present a resolution adopted by the Regional Chamber of Commerce Council, of Middletown, N.Y., relating to the Delaware River Basin compact. I ask unanimous consent that the resolution be printed in the RECORD.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

**RESOLUTION ON DELAWARE RIVER BASIN**

Whereas the people of the Delaware River Basin need the assurance that the Government will provide protection so that a flood like that of 1955 should never happen again; and

Whereas the growing need for water is evident from the population explosion predicted in the immediate future in the river basin and in the cooperating metropolitan areas; and

Whereas the industrial expansion along the Delaware has been hampered by the salination of the lower reaches of the Delaware, which the basin program will eliminate; and

Whereas the recent studies of the Delaware River Basin have provided for national park sites bordering the Tocks Island Dam Reservoir, which would, it is expected, bring some 7 million people to the tri-States area during the summer months; and

Whereas the Regional Chamber of Commerce Council, composed of chambers of commerce in and bordering the area favor the compact and its many ramifications, we urge your support of the Delaware River Basin project which will aid the economic expansion and development of an area in which you and the council are most vitally interested.

Sincerely yours,  
REGIONAL CHAMBER OF COMMERCE  
COUNCIL,  
RALPH C. FREDERICK,  
*Basin Study Chairman.*

**REPORTS OF COMMITTEES**

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on Agriculture and Forestry, without amendment:

H.R. 4682. An act to authorize the Secretary of Agriculture to sell and convey certain lands in the State of Iowa (Rept. No. 905); and

H.R. 6193. An act to authorize the Secretary of Agriculture to convey certain lands in the State of Wyoming to the county of Fremont, Wyo. (Rept. No. 904).

By Mr. JORDAN, from the Committee on Agriculture and Forestry, without amendment:

H.R. 3879. An act to authorize and direct the Secretary of Agriculture to convey to the State of Wyoming for agricultural purposes certain real property in Sweetwater County, Wyo. (Rept. No. 906); and

H.R. 3920. An act to authorize an exchange of land at the Agricultural Research Center (Rept. No. 907).

By Mr. JOHNSTON, from the Committee on Post Office and Civil Service, with an amendment:

S. 188. A bill to grant civil service employees retirement after 30 years' service (Rept. No. 909).

By Mr. YARBOROUGH, from the Committee on Post Office and Civil Service, without amendment:

H.R. 2555. An act to authorize pay with respect to civilian employees of the United States in cases of emergency evacuations, to consolidate the laws governing allotment and assignment of pay by such employees, and for other purposes (Rept. No. 910).

**AMENDMENT OF WELFARE AND PENSION PLANS DISCLOSURE ACT—REPORT OF A COMMITTEE—SEPARATE VIEWS (S. REPT. NO. 908)**

Mr. McNAMARA. Mr. President, from the Committee on Labor and Public Welfare, I report an original bill to amend the Welfare and Pension Plans Disclosure Act with respect to the method of enforcement and to provide certain additional sanctions, and for other purposes, and I submit a report thereon.

This bill would provide far greater protection to millions of Americans, whose future security depends upon the integrity of their pension and welfare funds. At a later time, I will have more to say about this important measure.

I ask unanimous consent that the separate views of the Senator from Texas [Mr. Tower] be printed with the report.

The VICE PRESIDENT. The report will be received, and the bill will be placed on the calendar; and, without objection, the report will be printed, as requested by the Senator from Michigan.

The bill (S. 2520) to amend the Welfare and Pension Plans Disclosure Act with respect to the method of enforcement and to provide certain additional sanctions, and for other purposes, reported by Mr. McNAMARA, from the Committee on Labor and Public Welfare, was read twice by its title, and placed on the calendar.

**BILLS INTRODUCED**

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SALTONSTALL (by request):

S. 2518. A bill for the relief of Carnetta Germaine Thomas Hunte; to the Committee on the Judiciary.

By Mr. CAPEHART:

S. 2519. A bill for the relief of Mladen Carrara, Tonina Carrara, Ante Carrara, and



Zvonko Carrara; to the Committee on the Judiciary.

By Mr. McNAMARA:

S. 2520. A bill to amend the Welfare and Pension Plans Disclosure Act with respect to the method of enforcement and to provide certain additional sanctions, and for other purposes; placed on the calendar.

(See the remarks of Mr. McNAMARA when he reported the above bill, which appear under the heading "Reports of Committees.")

By Mr. GORE:

S. 2521. A bill to amend the act of May 16, 1958, providing for the conveyance of certain lands in Shiloh National Military Park, State of Tennessee, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CASE of South Dakota:

S. 2522. A bill to defer the collection of irrigation maintenance and operation charges for calendar year 1962 on lands within the Angostura unit, Missouri River Basin project; to the Committee on Interior and Insular Affairs.

By Mr. EASTLAND:

S. 2523. A bill to amend section 7 of the War Claims Act of 1948; to the Committee on the Judiciary.

#### EXTENSION AND IMPROVEMENT OF NATIONAL DEFENSE EDUCATION ACT OF 1958—AMENDMENTS

Mr. GOLDWATER submitted amendments, intended to be proposed by him, to the bill (S. 2345) to extend and improve the National Defense Education Act of 1958, and for other purposes, which were ordered to lie on the table and to be printed.

#### PARTICIPATION IN RESETTLEMENT OF CERTAIN REFUGEES—AMENDMENTS

Mr. SMATHERS submitted amendments, intended to be proposed by him to the bill (H.R. 8291) to amend the act of July 14, 1960, enabling the United States to participate in the resettlement of certain refugees, and for other purposes, which were ordered to lie on the table and to be printed.

#### ENTRY OF CERTAIN ELIGIBLE ALIEN ORPHANS

Mr. EASTLAND. Mr. President, I ask the Chair to lay before the Senate the amendments of the House of Representatives to S. 2237.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 2237) to permit the entry of certain eligible alien orphans, which was, to strike out all after the enacting clause and insert:

That section 101(b) of the Immigration and Nationality Act (8 U.S.C. 1101) is hereby amended by adding the following new subparagraph (6):

"(6) The term 'eligible orphan' means any alien child under the age of fourteen at the time at which the visa petition is filed pursuant to section 205(b) who is an orphan because of the death or disappearance of both parents or because of abandonment, or desertion by, or separation or loss from, both parents, or who has only one parent due to the death or disappearance of, abandonment, or desertion by, or separation or loss from the other parent, and the remaining parent is incapable of providing care for

such orphan and has in writing irrevocably released him for emigration and adoption."

Sec. 2. Section 101(b) (1) of the Immigration and Nationality Act (8 U.S.C. 1101) is hereby amended by adding the following:

"(F) a child who is an eligible orphan, adopted abroad by a United States citizen and spouse or coming to the United States for adoption by a United States citizen and spouse: *Provided*, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage be accorded any right, privilege, or status under this Act."

Sec. 3. (a) Section 205(b) of the Immigration and Nationality Act (8 U.S.C. 1155) is hereby amended to read as follows:

"(b) Any citizen of the United States claiming that any immigrant is his spouse or child and that such immigrant is entitled to a nonquota immigrant status under section 101(a)(27)(A), or any citizen of the United States claiming that any immigrant is his parent or unmarried son or unmarried daughter and that such immigrant is entitled to a quota immigrant status under section 203(a)(2), or any alien lawfully admitted for permanent residence claiming that any immigrant is his spouse or his unmarried son or his unmarried daughter and that such immigrant is entitled to a quota immigrant status under section 203(a)(3), or any citizen of the United States claiming that any immigrant is his brother or sister or his married son or his married daughter and that such immigrant is entitled to a preference under section 203(a)(4) may file a petition with the Attorney General. No petition for quota immigrant status or a preference in behalf of a son or daughter under paragraph (2), (3), or (4) of section 203(a) of the Immigration and Nationality Act shall be approved by the Attorney General unless the petitioner establishes that he is a parent as defined in section 101(b)(2) of the Immigration and Nationality Act of the alien in respect to whom the petition is made, except that no such petition shall be approved if the beneficiary thereof is an alien defined in section 101(b)(1)(F). No petition for nonquota immigrant status in behalf of a child as defined in section 101(b)(1)(F) shall be approved by the Attorney General unless the petitioner establishes to the satisfaction of the Attorney General that the petitioner and spouse will care for such child properly if he is admitted to the United States, and (i) in the case of a child adopted abroad, that the petitioner and spouse personally saw and observed the child prior to or during the adoption proceedings, and (ii) in the case of a child coming to the United States for adoption, that the petitioner and spouse have complied with the preadoption requirements, if any, of the State of such child's proposed residence. The petition shall be in such form and shall contain such information and be supported by such documentary evidence as the Attorney General may by regulations prescribe. The petition shall be made under oath administered by any individual having authority to administer oaths, if executed in the United States, but, if executed outside the United States, administered by a consular officer."

(b) The second sentence of section 205(c) of the Immigration and Nationality Act (8 U.S.C. 1155) is hereby amended to read: "Not more than two such petitions may be approved for one petitioner in behalf of a child as defined in section 101(b)(1)(E) or (F), unless necessary to prevent the separation of brothers and sisters."

Sec. 4. The first sentence of section 221(c) of the Immigration and Nationality Act (8 U.S.C. 1201) is hereby amended to read: "An immigrant visa shall be valid for such period, not exceeding four months, as shall be by regulations prescribed, except that any visa issued to a child lawfully adopted by a United States citizen and spouse while such

citizen is serving abroad in the United States Armed Forces, or is employed abroad by the United States Government, or is temporarily abroad on business, shall be valid until such time, for a period not to exceed three years, as the adoptive citizen parent returns to the United States in due course of his service, employment, or business."

Sec. 5. (a) Title I of the Immigration and Nationality Act (8 U.S.C. 1101) is hereby amended by adding the following:

#### "JUDICIAL REVIEW OF ORDERS OF DEPORTATION

"SEC. 106. (a) The procedure prescribed by, and all the provisions of the Act of December 29, 1950, as amended (64 Stat. 1129; 68 Stat. 961; 5 U.S.C. 1031 et seq.), shall apply to, and shall be the sole and exclusive procedure for, the judicial review of all final orders of deportation heretofore or hereafter made against aliens within the United States pursuant to administrative proceedings under section 242(b) of this Act or comparable provisions of any prior Act, except that—

"(1) a petition for review may be filed not later than six months from the date of the final deportation order or from the effective date of this section, whichever is the later.

"(2) the venue of any petition for review under this section shall be in the judicial circuit in which the administrative proceedings before a special inquiry officer were conducted in whole or in part, or in the judicial circuit wherein is the residence, as defined in this Act, of the petitioner, but not in more than one circuit;

"(3) the action shall be brought against the Immigration and Naturalization Service, as respondent. Service of the petition to review shall be made upon the Attorney General of the United States and upon the official of the Immigration and Naturalization Service in charge of the Service district in which the office of the clerk of the court is located. The service of the petition for review upon such official of the Service shall stay the deportation of the alien pending determination of the petition by the court, unless the court otherwise directs;

"(4) except as provided in clause (B) of paragraph (5) of this subsection, the petition shall be determined solely upon the administrative record upon which the deportation order is based and the Attorney General's findings of fact, if supported by reasonable, substantial, and probative evidence on the record considered as a whole, shall be conclusive;

"(5) whenever any petitioner, who seeks review of an order under this section, claims to be a national of the United States and makes a showing that his claim is not frivolous, the court shall (A) pass upon the issues presented when it appears from the pleadings and affidavits filed by the parties that no genuine issue of material fact is presented; or (B) where a genuine issue of material fact as to the petitioner's nationality is presented, transfer the proceedings to a United States district court for the district where the petitioner has his residence for hearing de novo of the nationality claim and determination as if such proceedings were originally initiated in the district court under the provisions of section 2201 of title 28, United States Code. Any such petitioner shall not be entitled to have such issue determined under section 360(a) of this Act or otherwise;

"(6) if the validity of a deportation order has not been judicially determined, its validity may be challenged in a criminal proceeding against the alien for violation of subsection (d) or (e) of section 242 of this Act only by separate motion for judicial review before trial. Such motion shall be determined by the court without a jury and before the trial of the general issue. Whenever a claim to United States nationality is made in such motion, and in the opinion of the court, a genuine issue of material fact







# Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF  
BUDGET AND FINANCE  
(For information only;  
should not be quoted  
or cited)

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For actions of Sept. 11, 1961  
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HIGHLIGHTS: Senate passed Mexican farm labor bill. Senate agreed to conference report on saline water conversion bill. House agreed to conference report on Labor-HEW appropriation bill. House received conference report on State-Justice appropriation bill. Sen. Humphrey introduced and discussed sugar bill. Extension of remarks of Rep. Cooley reviewing farm legislation.

## HOUSE

1. APPROPRIATIONS. Received the conference report on H. R. 7371, the State-Justice appropriation bill (H. Rept. 1163). pp. 17652-3  
Agreed to the conference report on H. R. 7035, the Labor-HEW appropriation bill, and acted on amendments in disagreement. pp. 17658-65  
Agreed to the conference report on H. R. 8302, the military construction appropriation bill. pp. 17674-9
2. SALINE WATER. Received the conference report on H. R. 7916, to expand and extend the saline water conversion program being conducted by the Interior Department (H. Rept. 1158). pp. 17653-5
3. SMALL BUSINESS. Conferees were appointed on H. R. 8762, to amend the Small Business Act to increase the amount available for regular business loans thereunder. Senate conferees have already been appointed. p. 17657
4. WATERSHEDS. The Agriculture Committee approved work plans for the following watersheds: East Fork of Pond River, Ky.; Souhegan River, Mass.-N. H.; Ahoskie Creek, N. C.; David's Creek, Ia.; Davis-Battle Creek, Ia.; Ryan-Henschal, Ia.; Cane Creek, Okla.; Dunlap Creek, Pa.; Little Satilla Creek, Ga.; Tallahalla



Creek, Miss.; Sarasota West Coast, Fla.; and Kickapoo Creek, Wis. p. 17652

5. FOREIGN TRADE. The Post and Civil Service Committee reported without amendment H. R. 7791, to provide for the collection and publication of foreign commerce and trade statistics (H. Rept. 1160). p. 17703
6. PERSONNEL. Agreed to the Senate amendment on H. R. 2883, to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment. This bill will now be sent to the President. p. 17658  
Received from the Civil Service Commission a proposed bill "to provide for the payment of compensation and restoration of employment benefits to certain Federal officers and employees improperly deprived thereof." pp. 17702-3  
Agreed to the Senate amendment (with an amendment) to H. R. 5490, to provide for more effective participation in the reserve components of the Armed Forces, and to provide for two weeks military service on a calendar year basis rather than a fiscal year basis. pp. 17663-5
7. FOREIGN AFFAIRS. The "Daily Digest" states that the Foreign Affairs Committee "Completed markup of H. R. 7936, to establish a U. S. Disarmament Agency for World Peace and Security. Ordered a clean bill introduced in the House." pp. D835-6
8. FOREIGN TRADE. Rep. Reuss discussed the European Common Market, and quoted Secretary Freeman as saying "'American agriculture is concerned over the possibility of a restrictive import policy on the part of the Common Market which would reduce our sales to the area of wheat, rice, feed grains, livestock products, poultry, tobacco, and certain fruits.'" pp. 17694-6

SENATE

9. FARM LABOR. By a vote of 76 to 9, passed with amendments H. R. 2010, to extend and amend the Mexican farm labor program (pp. 17738-46). By a vote of 42 to 40, agreed to an amendment by Sen. McCarthy to provide that no Mexican worker recruited under the program shall be made available to any employer or permitted to remain in the employ of any employer unless the employer offers and pays such worker wages at least equivalent to 90 percent of the average farm wage in the State in which the area of employment is located, or 90 percent of the national farm wage average, whichever is lesser. A motion to reconsider the vote by which the amendment was agreed to was tabled by a vote of 42 to 41. (pp. 17738-42). By a vote of 35 to 49, rejected an amendment by Sen. Keating which would have provided that before Mexican workers could be employed, efforts must be made to attract domestic workers by offering them conditions of employment comparable to those offered Mexican workers (pp. 17743-45). Conferees were appointed (p. 17746).
10. SALINE WATER. Received and agreed to the conference report on H. R. 7916, to extend and expand the saline water conversion program (H. Rept. 1158). As agreed to the bill authorizes the appropriation of \$75 million over a 6-year period, from fiscal year 1962 through fiscal year 1967, for the program. pp. 17796-800
11. WATER RESOURCES. The Interior and Insular Affairs Committee voted to report (but did not actually report) with amendment H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin compact. p. D834
12. PUBLIC LANDS. The Interior and Insular Affairs Committee reported without amendment H. R. 2280, to provide for the withdrawal of certain public lands 40 miles east of Fairbanks, Alaska, for use by the Department of the Army as a Nike







The Post Office and Civil Service Committee reported without amendment H. R. 8565, to permit certain Government employees to elect to receive compensation in accordance with section 401 of the Federal Employees Pay Act of 1945, in lieu of certain compensation at a saved rate (H. Rept. 1168). p. 18028

The Subcommittee on Executive and Legislative Reorganization of the Government Operations Committee voted to report to the full committee H. R. 8798, relating to travel expenses of certain civilian officers and employees. p. D840

6. FARM LABOR. Rep. Coad objected to sending H. R. 2010, to extend and amend the Mexican farm labor program, to conference. p. 17950

7. FOREIGN AFFAIRS. Conferees were appointed on H. R. 8666, to provide for the improvement and strengthening of the international relations of the U. S. by promoting better mutual understanding among the peoples of the world through educational and cultural exchanges. p. 17950

The Foreign Affairs Committee reported without amendment H. R. 9118, to establish a U. S. Arms Control Agency (H. Rept. 1165). p. 18028

8. FEED GRAINS. Rep. Fountain discussed the feed grains program, and said, "I am glad that I supported the feed grain program." pp. 18024-5

Rep. Smith, Iowa, discussed the feed grains program, saying, "When the administration early this year proposed the 1961 emergency feed grain program, its objective was to first improve farm income and second, to reduce Government costs. The September crop report clearly indicates that these two objectives have been fully achieved." pp. 18025-6

#### SENATE

9. PERSONNEL. The Post Office and Civil Service Committee reported with amendments S. 1732, to increase the limitation on the number of supergrade and high-level scientific positions (S. Rept. 977). p. 17820

Passed without amendment H. R. 6141, to limit to cases involving the national security the prohibition on payment of annuities and retired pay to officers and employees of the Federal Government. This bill will now be sent to the President. pp. 17935-46

10. YOUTH CONSERVATION CORPS. The Labor and Public Welfare Committee reported with amendments S. 404, to authorize the establishment of a Youth Conservation Corps of young men to assist in the conservation of natural resources (S. Rept. 976). pp. 17819-20

11. WATER COMPACTS. The Public Works Committee reported with amendment S. 856, to grant the consent of Congress to the Delaware River Basin Compact (S. Rept. 985). p. 17819

12. TRANSPORTATION. The Commerce Committee reported without amendment S. 2524, to extend until March 31, 1962, the authority for dual-rate contract agreements by steamship conferences (S. Rept. 979). p. 17819

Began debate on H. R. 6775, to extend indefinitely the authority for dual-rate contract agreements by steamship conferences. pp. 17946-8

13. RECLAMATION. The Interior and Insular Affairs Committee reported with amendments S. 1060, to authorize construction of the Oroville-Tonasket unit of the Okanogan-Similkameen division, Chief Joseph Dam project, Wash. (S. Rept. 973). p. 17819



The Irrigation and Reclamation Subcommittee of the Interior and Insular Affairs Committee approved for full committee consideration S. 2008, relating to the construction and operation of the Spokane Valley project. p. D839

14. MINERALS. The Interior and Insular Affairs Committee reported without amendment H. R. 2924, to repeal an act extending the time in which to file adverse claims and institute adverse suits against mineral entries in Alaska (S. Rept. 982). p. 17819
15. FORESTRY. The Interior and Insular Affairs Committee reported with amendments S. 1760, to provide for the establishment of the Great Basin National Park, Nev. (the bill as introduced provided for the transfer of national forest lands to the proposed park)(S. Rept. 983). p. 17819
16. EDUCATION. Passed with amendments S. 2393, to extend for 2 years the authority for Federal assistance for the construction and operation of schools in federally impacted areas and the National Defense Education Act (pp. 17827-32, 17834-5, 17837, 17844-910). By a vote of 80 to 7, agreed to an amendment by Sen. Monroney to extend the programs for a 2-year period (pp. 17879-910). By a vote of 40 to 45, rejected an amendment by Sen. Morse (for himself and Sen. Javits) to limit to a 1-year period assistance to schools in federally impacted areas (pp. 17900-01).
17. LABOR-HEW APPROPRIATION BILL FOR 1962. Agreed to the conference report and acted on amendments in disagreement on this bill, H. R. 7035. The bill will now be sent to the President. pp. 17910-6
18. FEED GRAINS. Sen. Keating referred to the latest report on probable feed grain production and contended that the feed grain program has "failed" since "Production has not been materially cut." p. 17825  
Sen. Proxmire defended the feed grain program and stated that "the value to feed grain producers and the U. S. taxpayer of the 1961 feed grain program, in contrast to the program which it replaced, was again demonstrated by the September crop report issued yesterday by the U. S. Department of Agriculture." pp. 17918-9  
Sen. Humphrey defended the program as having "saved the Government of the United States millions of dollars" and stated that "Had there been no 1961 feed grain program, corn would be about ready to harvest from 71.5 million acres - as in 1960 - and grain sorghum would have been approximately 15.5 million." p. 17934
19. ELECTRIFICATION. Sen. Moss inserted an article on the controversy of public vs private construction of transmission lines between the dams of the Colorado River storage project, "Private Firms Score Big Point in Power Transmission Battle." pp. 17833-4
20. LEGISLATIVE PROGRAM. Sen. Mansfield announced that the foreign aid, public works, and supplemental appropriations bills will be considered as soon as they are reported from committee. pp. 17835-6

#### ITEMS IN APPENDIX

21. LIVESTOCK. Extension of remarks of Rep. Poage discussing the cattle branding, identification and inspection program in Texas. pp. A7146-7



## DELAWARE RIVER BASIN COMPACT

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SEPTEMBER 12, 1961.—Ordered to be printed

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Mr. KERR, from the Committee on Public Works, submitted the following

## REPORT

[To accompany S. 856]

The Committee on Public Works, to whom was referred the bill (S. 856) to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

## BACKGROUND AND EFFECT OF PART I

S. 856 as introduced and as considered by the committee, before amendments, represents the affirmative action taken by the States of New York, Pennsylvania, New Jersey, and Delaware, in agreeing to an interstate-Federal arrangement with respect to the utilization, development, and regulation of water and related natural resources.

This legislation would establish a regional agency called the Delaware River Commission with jurisdiction over the Delaware River Basin including territory of each of the States of New York, Pennsylvania, New Jersey, and Delaware.

It would have the character of both a State agency of each of the four States, as well as an agency of the Federal Government. The commission would consist of the Governors of the four States, ex officio, and one commissioner to be appointed by the President. Each member would have a single vote, and in most instances majority vote would control.

The duration of the compact would be 100 years, unless a State legislature or Congress gave notice of termination between the 75th and 80th years.

The commission would have a wide variety of regulatory and administrative authority for the development of the basin water resources. Among the duties with which the commission would be charged would be the planning and execution of the development of water resources by acquiring or building and operating and maintaining dams, reservoirs and similar facilities, to regulate flow of water for quality control, flood control, to encourage and promote sound watershed management, recreation, hydropower and its transmission, and other such things.

The legislation would authorize the commission to establish cost-sharing formulas and standards for apportionment of costs among project purposes and among groups of beneficiaries. It would be given borrowing powers and authority to issue bonds. The signatory States agree not to undertake any development projects unless they have been approved by the commission and made a part of their program. The Federal Government would agree to substantially the same terms, except that it is stipulated that nothing is to be construed as relinquishing the powers or duties of Congress with respect to control of navigable waters or to be construed in derogation of the constitutional powers of Congress to regulate commerce, and that Congress could withdraw the Federal Government as a party or revise or modify the terms under which it would remain a party to the compact.

#### PROPOSED AMENDMENTS AS PART II

The Honorable Stewart L. Udall, Secretary of the Interior, was authorized to comment on the Delaware River Basin legislation on behalf of all Federal executive agencies. In his comments on S. 856 he referred to the authority which would be vested in the commission and observed that the compact, in effect, would substitute the commission for the Federal and State Governments in planning, operating, controlling and regulating the water resources of the Delaware River and that the commission could finance and build its own facilities and market the products and services provided by those facilities.

The Secretary of the Interior discussed the extensive negotiations and litigation that has retarded the basin water resources development. He pointed out that after extensive discussions with representatives of the Delaware Basin States, mutually acceptable amendments to the bill were agreed upon with the exception of the applicability of the preference clause in connection with power dispositions by the commission. The amendments, which would be made part II of the compact, suggested by the Secretary of the Interior along with a brief explanation of each follows:

#### "PART II

##### "ARTICLE 15—RESERVATIONS

"15.1. In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

“(a) No provision of Section 3.7 of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the Basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the Compact; or to impose any charges with respect to commercial navigation within the Basin, jurisdiction over which is reserved to the Federal Government: *Provided*, That this paragraph shall be applicable to the extent not inconsistent with Section 1.4 of this Compact.”

The purpose of this amendment is merely to clarify the intent of section 3.7 of the compact.

“(b) Nothing contained in the Compact shall be deemed to restrict the executive powers of the President in the event of a national emergency.”

This amendment would assure that the President's powers in the event of national emergency are not restricted by the compact.

“(c) Notwithstanding the provisions of Article 2, section 2.2 of the Compact, the member of the commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President.”

Section 2.2 now provides that the member appointed by the President serves during the term of office of the President. This amendment would place the tenure of the Federal member on the same basis as that which prevails generally for principal executives in the Federal service.

“(d) Nothing contained in the Compact shall be construed as impairing or in any manner affecting the applicability to all Federal funds budgeted and appropriated for use by the Commission, of such authority over budgetary and appropriation matters as the President and Congress may have with respect to agencies in the Executive Branch of the Federal Government.”

This amendment would assure that no Federal funds are made available to the commission unless they have been budgeted and appropriated in accordance with general law and standard Federal procedures.

“(e) Except to the same extent that state bonds are or may continue to be free or exempt from Federal taxation under the internal revenue laws of the United States, nothing contained in the Compact shall be construed as freeing or exempting from internal revenue taxation in any manner whatsoever any bonds issued by the Commission, their transfer, or the income therefrom (including any profits made on the sale thereon).”

Section 12.8 of the compact grants a tax exemption for bonds of the commission and interest thereon for the life of the compact. This amendment would place the commission bonds on a par with all other State bonds as respects Federal taxation.

“(f) Nothing contained in the Compact shall be construed to obligate the United States legally or morally to pay the principal or interest on any bonds issued by the Delaware River Basin Commission.”



Section 12.20 of the compact already states that the parties will provide only such capital funds as are authorized by their respective statutes. This amendment would merely assure that no legal or moral obligation to pay principal or interest on bonds could be inferred from other language of the compact.

“(g) Notwithstanding the provisions of section 11.5 or any other provision of the Compact, the furnishing of technical services to the Commission by agencies of the executive branch of the Government of the United States is pledged only to the extent that the respective agencies shall from time to time agree thereto or to the extent that the President may from time to time direct such agencies to perform such services for the Commission. Nothing in the Compact shall be deemed to require the United States to furnish administrative services or facilities for carrying out functions of the Commission except to the extent that the President may direct.”

Section 11.5 of the compact would pledge each signatory party to provide technical services (within the limits of available appropriations) to the commission. This amendment would assure retention by the President and respective Federal agencies of control over the furnishing of such services, and would prevent interpretation of the compact to require the furnishing of administrative services by Federal agencies.

“(h) All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are undertaken by the Commission or are financially assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the locality so determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in any workweek, as the case may be. A provision stating the minimum wages thus determined and the requirement that overtime be paid as above provided shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project. The Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards specified in this provision, the supervisory, investigatory and other authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).”

Since the commission would be a Federal instrumentality, this amendment would apply Federal labor standards to its contracting operations.

“(i) Contracts for the manufacture or furnishing of materials, supplies, articles and equipment with the Commission

which are in excess of \$10,000 shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq)."

This amendment is similar in purpose to that of paragraph (h). The Walsh-Healey Act provides for labor standards in connection with supply contracts.

"(j) Notwithstanding any other provision of this Act, nothing contained in this Act or in the Compact shall be construed as superseding or limiting the functions, under any other law, of the Secretary of Health, Education and Welfare or of any other officer or agency of the United States, relating to water pollution: *Provided*, That the exercise of such functions shall not limit the authority of the Commission to control, prevent, or abate water pollution."

The interaction of article 5 relating to water pollution and the repealer clause of the compact with present Federal laws for abatement of pollution raised the possibility that Federal powers in this area might in some way be limited by the compact. This amendment would make certain that existing Federal authority to abate or assist in the abatement of water pollution would not be affected by the compact.

"(k) The provisions of section 8.4 of Article 8 of the Compact shall not be construed to apply to facilities operated pursuant to any other Federal law."

Section 8.4 of the compact would empower the commission to adopt regulations for the award of private concession contracts in connection with recreation facilities. This amendment would prevent application of commission regulations to concessions awarded in connection with the operation of recreation facilities by other Federal agencies.

"(1) For purposes of the Act of June 25, 1948, 62 Stat. 982, as amended (Title 28, U.S. Code, chapter 171, and sections 1346(b) and 240(b)) and the Act of March 3, 1887, 24 Stat. 505, as amended (title 28, United States Code, sections 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412, 2501), and the Act of June 11, 1946, 60 Stat. 237, as amended (title 5, United States Code, sections 1001 and 1011, title 50, Appendix, United States Code, section 1900), the Commission shall not be considered a Federal agency."

Because the commission would be a Federal agency, this amendment is necessary to exempt it from the Federal Tort Claims Act, Tucker Act and Administrative Procedures Act.

"(m) The officers and employees of the Commission (other than the United States member, alternate United States member, and advisors, and personnel employed by the United States member under direct Federal appropriation) shall not be deemed to be, for any purpose, officers or employees of the United States or to become entitled at any time by reason of employment by the Commission to any compensation or benefit payable or made available by the United States solely and directly to its officers or employees."

The status of the commission as a Federal agency also necessitates this amendment to provide that employees of the commission are not deemed employees of the United



States or entitled to any compensation or benefits available only to such employees.

“(n) Neither the Compact nor this Act shall be deemed to enlarge the authority of any Federal agency other than the Commission to participate in or to provide funds for projects or activities in the Delaware River Basin.”

This amendment is designed to assure that congressional and executive direction as to activities of Federal agencies in the basin is preserved.

“(o) The United States district courts shall have original jurisdiction of all cases or controversies arising under the Compact, and this Act and any case or controversy so arising initiated in a State Court shall be removable to the appropriate United States district court in the manner provided by § 1446, title 28, United States Code. Nothing contained in the Compact or elsewhere in this Act shall be construed as a waiver by the United States of its immunity from suit.”

The compact would allow court appeals from many decisions of the commission. This amendment would establish Federal court jurisdiction over cases arising under the compact, and would assure that any such cases initiated in a State court could be removed to a Federal court.

“(p) The right to alter, amend, or repeal this Act is hereby expressly reserved. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by the Delaware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee.”

The first sentence of this amendment is a standard provision to enable Congress to alter, amend or repeal this act at any time in the future. This sentence would also clarify any ambiguities in the language of section 1.4 of the compact. That section would allow Congress to modify the terms under which it may remain a party to the compact “by amendment, repeal or modification of any Federal statute applicable thereto \* \* \*.” The proposed amendment would assure that this language is not construed to apply only to existing Federal statutes and allows Congress full latitude in future legislation. The second sentence of the amendment was suggested by the Judiciary Committee of the House of Representatives.

“(q) The provisions of section 2.4 and 2.6 of Article 2 of the Compact notwithstanding, the member and alternate member appointed by the President and advisor there referred to may be paid compensation by the United States, such compensation to be fixed by the President at the rates which he shall deem to prevail in respect to comparable officers in the executive branch.”

Sections 2.4 and 2.6 of the compact provide that the members of the commission and their alternates and advisers shall serve without compensation. Since State Governors represent the States on the commission and other State officers may serve as alternates and advisers, this provision may be appropriate for them, but in the event that the Federal



member or his alternate or adviser holds no other Federal office obviously compensation would be required.

“(r) 1. Nothing contained in this Act or in the Compact shall impair or affect the constitutional authority of the United States or any of its powers, rights, functions, or jurisdiction under other existing or future legislation in and over the area or waters which are the subject of the Compact including projects of the Commission; *Provided*, That whenever a comprehensive plan, or any part or revision thereof, has been adopted with the concurrence of the member appointed by the President, the exercise of any powers conferred by law on any officer, agency or instrumentality of the United States with regard to water and related land resources in the Delaware River Basin shall not substantially conflict with any such portion of such comprehensive plan and the provisions of Section 3.8 and Article 11 of the Compact shall be applicable to the extent necessary to avoid such substantial conflict: *Provided further*, That whenever the President shall find and determine that the national interest so requires, he may suspend, modify or delete any provision of the comprehensive plan to the extent that it affects the exercise of any powers, rights, functions, or jurisdiction conferred by law on any officer, agency or instrumentality of the United States other than the Commission. Such action shall be taken by executive order in which such finding and determination shall be set forth.

“2. For the purposes of paragraph 1 hereof, concurrence by the member appointed by the President shall be presumed unless within 60 days after notice to him of adoption of the comprehensive plan, or any part or revision thereof, he shall file with the Commission notice of his nonconcurrence. Each concurrence of the member appointed by the President in the adoption of the comprehensive plan or any part or revision thereof may be withdrawn by notice filed with the Commission at any time between the first and sixtieth day of the sixth year after the initial adoption of the comprehensive plan and of every sixth year thereafter.”

In the absence of this proposed amendment, the compact would exempt the commission from much of the regulatory control of Federal agencies, and would require commission approval for any Federal or federally licensed project developing the water or related land resources of the basin. This amendment would provide that the licensing and regulatory authorities of the Federal agencies and the powers of other Federal agencies to act with regard to projects in the basin would be preserved, except that where the Federal member concurred in the adoption of the comprehensive plan or any part or revisions thereof, the exercise of any of these powers by any Federal agency could not substantially conflict with that portion of the comprehensive plan. It would also provide that the Federal member could review his concurrences every 6 years. As a further safeguard the President would have the power at any time the national interest so required to suspend, modify, or delete any provision of the compre-

hensive plan insofar as it might affect the exercise of any Federal powers.

“(s) In the event that any phrase, clause, sentence or provision of Section 1.4 of Article 1 of the Compact, is declared to be unconstitutional under the constitution of any of the signatory parties, or the applicability thereof to any signatory party, agency or person is held invalid by a court of last resort of competent jurisdiction, the United States shall cease to be a party to the Compact, except to the extent that the President deems remaining a party necessary and proper to protect the national interest, and shall cease to be bound by the terms thereof.”

All these amendments in this report are proposed to be made pursuant to the provision of section 1.4 of the compact. Ordinarily, if any party to an interstate compact conditions the terms of his participation, his consent is void unless these conditions are approved by the other parties. Here, however, in section 1.4, the other parties to this compact have agreed in advance to allow the Federal Government to condition the terms of its participation. If this section 1.4 were declared null and void, all Federal conditions would be void. In the absence of these conditions Federal interests would not be adequately protected. This amendment would assure that the Federal Government could withdraw in the event that section 1.4 was invalidated.

“(t) In making sales or leases of hydroelectric power generated pursuant to Article 9 of the Compact, preference shall be given to public bodies and cooperatives so defined in section 3 of chapter 720 of the Act of August 20, 1937, 50 Stat. 733 (title 16, United States Code, section 832b).”

The commission is by section 2.1 of the compact, an agency and instrumentality of the Federal Government. It has been national policy since 1906 to provide for preference in the sale of power developed under Federal auspices. Particularly should such a requirement apply when substantial Federal funds are involved.

“(u) All Acts or parts of Acts inconsistent with the provisions of this Act are hereby amended for the purpose of this Act to the extent necessary to carry out the provisions of this Act: *Provided, however,* That no act of the Commission shall have the effect of repealing, modifying or amending any Federal law.”

This amendment is similar to section 15.1 of the bill, but would add a proviso to assure that, in the exercise of the broad powers granted it by the compact, the commission could not effect the repeal or modification of any Federal law. Also in the first line of the paragraph, the words “any provision” would be changed to “the provisions” to assure that any determination of inconsistency take into account the effect of these reservations upon the body of the compact.

#### EFFECTUATION

“15.2. (a) The President is authorized to take such action as may be necessary and proper, in his discretion, to effec-



tuate the Compact and the initial organization and operation of the Commission thereunder."

This provision is now incorporated in S. 856 as section 15.2.

"(b) Executive departments and other agencies of the executive branch of the Federal Government shall cooperate with and furnish appropriate assistance to the United States member. Such assistance shall include the furnishing of services and facilities and may include the detailing of personnel to the United States member. Appropriations are hereby authorized as necessary for the carrying out of the functions of the United States member, including appropriations for the employment of personnel by the United States member."

This amendment is recommended to insure full cooperation between the Federal member of the Commission and the Federal agencies.

#### EFFECTIVE DATE

"15.3. This Act shall take effect immediately."

#### AMENDMENTS ADOPTED

The committee adopted all of the amendments suggested by the Secretary of the Interior, 15.1 (a) through (u), and 15.2 and 15.3, with the exception of 15.1(t), which relates to the provision for preference to public bodies and cooperatives in the disposition of electric energy. It should be noted that the citation of 15.1(t) relates to the authorization in 1937 of the Bonneville project in Oregon and Washington. The preference provision has been included in many other acts where water resources projects have been authorized by Congress, however, the committee understands that the sponsors of the legislation anticipated and expected that projects to be constructed by the commission would be submitted to Congress for authorization and that the present legislation does not authorize any projects. This would apply at least to those projects on which appropriated Federal funds or those derived from the sale of bonds would be utilized.

In order to insure that the commission would follow the same procedure as other Federal agencies in the accepted procedure for obtaining authorization of water resources projects, the committee in addition adopted the following amendment which would be designated as (a) under part II, article 15, section 15.1, with other amendment numbers changed to conform. Also the material starting on line 20 of page 68, through line 7, on page 69 of S. 856 would be deleted:

(a) Notwithstanding any provision of the Delaware River Basin Compact the Delaware River Basin Commission shall not undertake any project (as defined in such compact), other than a project for which state supplied funds only will be used, beyond the planning stage until—

(1) such Commission has submitted to the Congress such complete plans and estimates for such project as may be necessary to make an engineering evaluation of such project, including—

(A) where the project will serve more than one purpose, an allocation of costs among the purposes



served and an estimate of the ratio of benefits to costs for each such purpose,

(B) an apportionment of costs among the beneficiaries of the project, including the portion of the costs to be borne by the Federal government and by State and local governments, and

(C) a proposal for financing the project, including the terms of any proposed bonds or other evidences of indebtedness to be used for such purpose; and

(2) such project has been authorized by Act of Congress.

In view of the intent and of the amendment requiring the submission of projects to Congress for authorization, the committee sees no reason to place further restrictions on the commission at this time in the form of a mandate that the preference provisions would be applicable to all projects whether State or federally financed. The legislation as agreed upon does not authorize any projects. Each project which the commission proposes to construct, other than those for which State supplied funds only would be used, would be submitted to Congress for its action and on the basis and with the provisions and requirements as the Congress might provide. The committee has consistently taken the position which honors the philosophy and policy with respect to preference customers in federally financed electric power developments, and nothing in this act in any way changes or impairs that policy.

#### CONCLUSIONS AND RECOMMENDATIONS

The committee concludes that the legislation, as amended, would provide an efficient and practicable means of carrying forward a very much needed program of water resources development in the Delaware River Basin. The States involved have worked long and hard in an effort to solve the problem which has resulted in numerous and prolonged litigations and many years of extremely complicated and expensive studies and negotiations. The committee believes that the legislation will correct this problem.

The executive branch has undertaken to prepare amendments which it feels would insure adherence by the commission to Federal laws and policies.

The committee concludes that the executive branch in giving its approval to the legislation has satisfied itself of the propriety of the procedures under which the commission would be authorized to act as an agency of the Federal Government.

The committee concludes that the intent of the legislation plus the amendments suggested by the executive branch and adopted by the committee will insure control by Congress of projects and programs where congressional control is appropriate. The committee recognizes that the legislation sets up a unique Federal-States arrangement, however, it is hopeful and anticipates that this arrangement will result in a healthy situation whereby a complete and fully coordinated basin water resources development can become a reality.

The committee concludes that the position of electric power preference customers will in no way be impaired.

The committee recommends and urges enactment of this legislation.

## SECTION ANALYSIS

The compact bill consists of two parts: part I is the compact itself, which is to be enacted in identical form by all of the compacting parties; and part II, which is the nonconcurrent part setting forth reservations of Congress pursuant to section 1.4 of the compact.

The preamble sets forth the need and the background of the compact.

Article 1 is primarily a definition section which includes a description of the natural area of the river basin and other pertinent definitions. Section 1.3 sets forth various legislative findings, such as that—

the water resources of the basin are subject to the sovereign right and responsibility of the signatory parties, and it is the purpose of this compact to provide for a joint exercise of such powers of sovereignty in the common interests of the people of the region; and that such resources are functionally interrelated, and their uses are interdependent. A single administrative agency is therefore essential for effective and economical direction, supervision, and coordination of efforts and programs of Federal, State, and local governments and of private enterprise.

Section 1.4 specifically affirms the power of the Congress to withdraw the Federal Government as a party to the compact or to modify the terms, conditions and provisions under which it may remain a party by amendment, repeal or modification of any Federal statute applicable thereto. This section also affirms the principle that nothing in the compact shall be construed to relinquish the functions, powers, or duties of Congress with respect to the control of any navigable waters nor can it be considered in derogation of any of the constitutional powers of Congress to regulate commerce.

Section 1.5 indicates that it is the purpose to preserve and utilize functions, powers, and duties of existing agencies of Government to the extent not inconsistent with the compact.

Section 1.6 provides that the compact shall be for an initial period of 100 years and shall be continued for an additional 100 years under certain conditions.

Section 2.1 authorizes the creation of the commission as a body politic and corporate, with succession for the duration of the compact, as an agency and instrumentality of the governments of the respective signatory parties.

Section 2.2 provides that the commission shall consist of the Governors of the States, ex officio, and one commissioner to be appointed by the President to serve during the term of office of the President.

Sections 2.3 and 2.4 relate to selection of alternate members and compensation.

Sections 2.5, 2.6, and 2.7 specify that each member shall be entitled to one vote and action of the commission shall be within the basin except where it is necessary to go outside the basin to effectuate its powers and duties within the basin, or to sell water, power, or other water resources within or without the basin. The commission shall exercise such powers outside the basin only upon consent of the State concerned.



Section 3.1 provides that the commission shall effectuate and develop plans, policies, and projects. It shall adopt and promote uniform policies and encourage planning, development, and financing of water resources projects.

Section 3.2 directs the commission to formulate a comprehensive plan, a water resources program, and an annual current budget.

Section 3.3 directs the commission to allocate the waters of the basin among the States and to and among their respective political subdivisions, and to impose conditions, obligations, and release requirements related thereto, subject to the following:

(a) Recognize the decree with respect to the diversions of water to New York.

(b) No allocation of water made shall constitute a prior appropriation, provided, however, that nothing shall be construed as limiting or restricting commission to enter into covenants with respect to water supply, with a duration not to exceed the life of the compact.

(c) Any proper party, with respect to an out-of-basin diversion or compensating releases, may invoke the original jurisdiction of the U.S. Supreme Court within 1 year after such action for an adjudication.

Sections 3.4 and 3.5 relate further to decree.

Section 3.6 authorizes commission to plan, design, acquire, construct, reconstruct, complete, own, improve, extend, develop, operate and maintain any and all projects, facilities, properties, activities, and services, determined by commission to be necessary, convenient, or useful for the purpose of compact. The commission could establish standards for planning, etc. It could conduct research, maintain water supply records, conduct ground water investigations. It may negotiate for loans, grants, services, or other aid as may be available and receive such and subject to such provisions for repayment as may be required by Federal or State law or as the commission may deem necessary or desirable. Exercise all powers necessary or convenient to carry out its express powers or which may be reasonably implied.

Section 3.7 authorizes the commission after notice and hearing to fix, alter and revise rates, rentals, changes and tolls and classifications thereof, for the use of facilities which it may own or operate, etc., without regulation or control by any department, office, or agency of any signatory party.

Section 3.8 provides that no project shall be undertaken unless it has been approved by commission. This section provides that commission shall approve projects which will not substantially impair or conflict with comprehensive plan.

Section 3.9 provides for coordination by commission with other agencies and it may—

(a) advise, consult, contact, financially assist, or otherwise cooperate with Federal, State, municipal and private agencies;

(b) employ any agency to construct, operate, and maintain structures and installations;

(c) develop and adopt plans consistent with comprehensive plan;

(d) qualify as sponsoring agency under any Federal legislation to provide financial or other assistance for all water resources activities.



Sections 4.1 through 4.5 relate to authority to develop, construct, assess costs, etc., for municipal, agricultural, and industrial water supply.

Sections 5.1 through 5.5 grants authority to investigate, acquire, construct, operate, and maintain projects to control potential pollution. It may assume jurisdiction to control future pollution and abate pollution. It may classify water and determine water standards. It may carry out abatement enforcement action.

Sections 6.1 through 6.4 authorizes all necessary flood protection measures as may be deemed necessary or desirable. It includes flood plain zoning, flood lands acquisition and provide flood and stream stage warnings and posting.

Sections 7.1 through 7.4 directs the commission to promote watershed management, including retard and soil erosion measures. It may acquire, sponsor, or operate projects to promote land reclamation and forestry practices and provide improvements for fish and wildlife habitats relating to water resources. The commission shall not operate any such project or facility unless there is found to be no other suitable unit or agency to handle the problem.

Sections 8.1 through 8.4 directs the commission to provide for development of water-related public sports and recreational facilities.

Sections 9.1 through 9.5 provides that waters may be impounded and used for hydroelectric power in accordance with the comprehensive plan. Authority is given for the generation, transmission, and sale of power including rate determination.

Sections 10.1 through 10.8 authorizes the commission to regulate and control diversions from surface and ground waters of the basin. It is authorized to set up "protected areas" in instances where demands for water have reached a point where adverse effects on the comprehensive plan may occur.

Sections 11.1 through 11.5 specifies, among other things, the following:

(a) Planning of all projects shall be done in consultation with commission.

(b) No expenditure or commitment shall be made for construction or operation of projects unless it has been included by commission in comprehensive plan.

(c) Federal agencies shall continue to have authority to construct and maintain projects except as specifically provided by section.

(d) All State and local agency projects must have all plans, etc., approved by commission.

(e) There is reserved to each of the signatory parties the right to levy, assess, and collect fees, charges, and taxes on or measured by the withdrawal or diversion of waters of the basin for use within the jurisdiction of the signatory parties.

(f) The commission shall set up standards for project evaluation, cost allocations, set priorities, determine cost sharing, determine amounts of reimbursement to signatory parties, and payments in lieu of taxes.

Sections 12.1 through 12.20 authorizes the commission to borrow money for the purposes of compact, to issue negotiable bonds and

other evidences of indebtedness. In general, these sections authorize the following:

(a) The bonds or other obligations shall be direct and general obligations of the commission and the full faith and credit of the commission are pledged to their payment.

(b) Include without limitation cost of project or facility including interest thereon, etc.

(c) The commission shall have no power to pledge credit of any signatory party, or any county or municipality.

(d) Bonds and other indebtedness of the commission shall be authorized by resolution. The bonds may be secured by a pledge of all or any part of the property, resources, and franchises under its control.

(e) No bonds shall mature in more than 50 years.

(f) All bonds and the interest thereon shall be free and exempt from taxation except for transfer, inheritance and estate taxes.

(g) Bonds shall bear interest at not to exceed 6 percent.

(h) Bond redemption and interest payments, to the extent provided in resolution or indenture, constitute a first, direct, and exclusive charge and lien on all rates, rents, tolls, fees and charges and other revenues, etc., received from the use and operation of the facility.

(i) Capital funds shall be provided as may be required for projects of the commission as may be authorized.

Sections 13.1 through 13.3 authorizes adoption, review, and revision of comprehensive plan, and the establishment of annual program, based on the comprehensive plan, for projects and the adoption of an annual current expense and capital budget.

Section 14.1 outlines and spells out auxiliary powers of commission with respect to adoption of seal, accept moneys, acquire and adopt plans, control and regulate use of facilities owned and operated by commission, acquire control and sell real and personal property, etc., determine obligations and expenditures, create and abolish offices, and let and execute contracts.

Section 14.2 provides that the commission may set up rules and regulations for effectuation, application, and enforcement of the compact.

Section 14.3 provides for tax exemption and authority for making payments in lieu of taxes.

Section 14.4 provides that all meetings shall be public and public hearings shall be conducted prior to adoption of the comprehensive plan, water resources program, budgets, letting of contracts and contracts for sale of hydroelectric energy or water resources.

Sections 14.5, 14.6, 14.7, 14.8, 14.9, 14.10, 14.11, 14.12, and 14.13 relate to appointive powers, oath of office, bonds, prohibited activities, purchasing, insurance, audits, reports and grants, loans or payments.

Section 14.14 provides that the commission shall have power to acquire by condemnation land, riparian rights, water rights, and other property for any project authorized by compact.

Section 14.15 provides for conveyance of land and relocation of public facilities.

Section 14.16 provides for right of way across highways, streets, etc.



Section 14.17 provides for punishment for violation of compact or rules and regulation.

Section 14.18 relates to tort liability.

Section 14.19 preserves rights of signatory parties relating to riparian rights.

Section 14.20 provides for amendments and supplements to compact.

Section 14.21 relates to severability.

Section 14.22 provides that compact shall be binding and effective 30 days after enactment of concurring legislation by the Federal Government and the four States.

Part II of the bill includes the various terms and conditions to Federal participation and the analyses of the provisions are included under the headings of "Proposed Amendments as Part II" and "Amendments Adopted."

Attached hereto are (1) report by the Secretary of the Interior on behalf of the executive agencies, (2) Bureau of the Budget, (3) Department of the Army, (4) Department of Justice, (5) Department of Agriculture, (6) Department of Labor, (7) Department of Commerce, (8) Treasury Department, (9) Department of Health, Education, and Welfare, (10) Federal Power Commission, and (11) Comptroller General of the United States.

U.S. DEPARTMENT OF THE INTERIOR,

OFFICE OF THE SECRETARY,

*Washington, D.C., August 15, 1961.*

HON. DENNIS CHAVEZ,  
*Chairman, Committee on Public Works,*  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR CHAVEZ: This responds to your request for the views of this Department on S. 856, a bill to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

In order to give your committee the benefit of the executive agencies' position on the bill before the end of the session, this Department has been authorized to make its report on behalf of all Federal executive agencies. The Federal executive agencies would not object to the enactment of S. 856 with the amendments recommended in this report.

This legislation without taking into account our proposed amendments, seeks to create unique governmental machinery to administer the water and related land resources of the Delaware Basin, to wit: an interstate-Federal commission. This commission would be composed of Governors of Delaware, New Jersey, New York, and Pennsylvania, and one member appointed by the President of the United States. Each member would have a single vote, and in most instances majority vote would control. The duration of the compact would be 100 years. It would continue for additional periods of 100 years, unless a State legislature or Congress gave notice of termination between the 75th and 80th years.



The commission would operate as an agency and instrumentality of all participating States and of the Federal Government. The compact would mandate the commission to develop and effectuate plans, policies, and projects relating to the water resources of the basin. It would grant also the commission sufficient power to control development of these resources. The commission would be empowered to construct and operate its own projects and facilities, financing them through loans, grants, or the issuance of bonds. It could establish standards of planning design and operation for all projects and facilities in the basin which affect its water resources. No project having a substantial effect on the basin's water resources could be undertaken by a private, local, State, or Federal authority without approval of the commission. Its areas of control and development would include water supply, pollution control, flood protection, watershed management, recreation, hydroelectric power, and the regulation of withdrawals and diversions of water. In all these fields, the commission could cooperate in resource development and management with all other governmental agencies.

Unlike previous interstate river basin compacts, this one would bind the United States on generally the same basis as the participating States. The Federal Government would, however, be given special standing by section 1.4 of the compact which provides that adoption of the compact would not relinquish the functions, powers, or duties of Congress with respect to control of navigable waters, and that Congress could withdraw the Federal Government as a party or revise or modify the terms under which it would remain a party to the compact. Subject to this special provision, the United States would be controlled by the State-dominated commission in future Federal activities in the basin. No Federal expenditure or commitment for construction, acquisition, or operation of a project or facility affecting the basin water resources would be deemed authorized until it was first included in the commission's comprehensive plan.

As a Federal agency, the commission could be outside the jurisdiction of many Federal regulatory agencies. The repealer provision would amend all Federal acts or parts of acts inconsistent with any provision of the compact to the extent necessary to carry out the compact's provisions. In effect, the compact would substitute the commission for the Federal and State Governments in planning, operating, controlling, and regulating the water resources of the Delaware River.

The breadth of the powers, both State and Federal, which would be conferred upon the compact commission, its distribution of voting strength and the difficulties inherent in coordination of the commission's authority with national water resource policies developed by Congress raise serious questions as to the efficacy of the compact and as to its compatibility with appropriate State-Federal relationships.

On the other hand, for more than 25 years efforts to reach agreement on natural resource development in the Delaware Basin have met with failure or, at most, only partial success. Previous suggested compacts have failed of passage in one or more of the State legislatures involved. The present compact, however, has been approved in all four States and now awaits only congressional consent and approval of Federal participation. The States of the basin, by voting their approval, have evinced their strong desire to proceed under the pattern of the proposed compact.

Because of the urgent need for flood control and the immediate need for recreational and industrial planning and development in the Delaware River Basin, Federal representatives have met over the past 4 months with representatives of the four State Governors in an attempt to formulate mutually acceptable conditions which could be recommended to the Congress as a basis for Federal participation and enactment of consent legislation.

These discussions have resulted in agreement on proposed amendments to S. 856 which would provide the minimum necessary protection of Federal interests. The only item on which agreement could not be reached was the applicability of the preference clause in connection with the power dispositions by the commission.

Even with these proposed amendments, the bill would not be acceptable were it not for the unique conditions and history in the Delaware Basin. We continue to hold the view that the Water Resources Planning Act of 1961 which the President proposed to the Congress in his message of July 13, 1961, provides generally a better method of Federal-State cooperation in planning for river-basin development. Inadequacies of the compact, even with the amendments proposed, demonstrate the need for such legislation. Nevertheless we have reached the conclusion that the urgent needs for resource planning and development in this area of mounting congestion outweigh the negative features of the compact. We do not object to this plan for resource administration in the Delaware Basin under the particular conditions set out in this report. It should, however, establish no precedent in our search for orderly maximum development of this Nation's water resources.

The amendments proposed, with the reasons for each, are attached hereto as an appendix to this report.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Copies of this report are being distributed to the Federal agencies involved and they are invited to comment directly to your committee if additional comments are necessary.

Sincerely yours,

STEWART L. UDALL,  
*Secretary of the Interior.*

(Attachment: Attachments included under heading of "Proposed Amendments," as pt. II.)

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EXECUTIVE OFFICE OF THE PRESIDENT,  
BUREAU OF THE BUDGET,  
Washington, D.C., August 18, 1961.

HON. DENNIS CHAVEZ,  
*Chairman, Committee on Public Works,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for a report on S. 856, a bill to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pol-



lution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

On August 15, 1961, the Department of the Interior submitted a report to your committee on S. 856 on behalf of the interested Federal executive agencies.

The Bureau of the Budget concurs generally in the views expressed in that report. It would not, therefore, object to enactment of S. 856, if amended as recommended therein.

Sincerely yours,

PHILLIP S. HUGHES,  
*Assistant Director for Legislative Reference.*

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DEPARTMENT OF THE ARMY,  
August 23, 1961.

HON. DENNIS CHAVEZ,  
*Chairman, Committee on Public Works,*  
*U.S. Senate*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of the Army with respect to S. 856, 87th Congress, a bill to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

The views of the Federal executive agencies on the proposed compact were set out in the Secretary of the Interior's letter of August 15, 1961. The Department of the Army participated in the discussions, including several conferences with officials of the States, which led up to the preparation of that letter, and is in accord with the views expressed therein.

It is our understanding that the States involved intend to make use of existing procedures for river basin development, and that in seeking the compact a principal objective has been to facilitate the carrying out of the comprehensive plan formulated by the Corps of Engineers of this Department with the close cooperation of other Federal agencies and the States themselves. The report in which this plan is set out was approved by the Board of Engineers for Rivers and Harbors on August 9, 1961, and is currently under review by the Chief of Engineers. After review by the States and interested Federal agencies, it will probably be submitted to the Congress before the end of the year.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

STEPHEN AILES,  
*Acting Secretary of the Army.*



DEPARTMENT OF JUSTICE,  
*Washington, D.C., August 23, 1961.*

HON. DENNIS CHAVEZ,  
*Chairman, Committee on Public Works,*  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 856) to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

The bill would grant the consent of Congress required by the Constitution to the States of Delaware, New Jersey, New York, and Pennsylvania for a compact known as the Delaware River Basin compact. The compact would create the Delaware River Basin Commission, as an agency of the compacting States and of the Federal Government, to formulate a comprehensive plan for the development and uses of the water resources of the Delaware River Basin and with extensive operating and regulatory authority.

A joint report for all executive agencies has been made by letters dated August 15 from Secretary of the Interior Udall to Senators Anderson, Eastland, and Chavez. The bill involves broad policy questions which are primarily the concern of other executive departments. We defer to the views expressed by the Secretary of the Interior regarding these matters.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

BYRON R. WHITE,  
*Deputy Attorney General.*

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DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
*Washington, August 23, 1961.*

HON. DENNIS CHAVEZ,  
*Chairman, Committee on Public Works, U.S. Senate.*

DEAR SENATOR CHAVEZ: This is in reply to your request of February 14, 1961, for a report on S. 856, a bill to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

The Department of the Interior has submitted a report to you on behalf of all the Federal executive agencies. The Department of

Agriculture would have no objection to the enactment of S. 856 with amendments recommended in that report.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

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U.S. DEPARTMENT OF LABOR,  
OFFICE OF THE SECRETARY,  
Washington, August 24, 1961.

HON. DENNIS CHAVEZ,  
*Chairman, Committee on Public Works,*  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR CHAVEZ: This is in further response to your request for the views of this Department on S. 856, a bill to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

Under date of August 15, 1961, the Secretary of the Interior submitted to your committee a report on this proposal on behalf of all Federal executive agencies. This Department is in accord with the views and recommendations therein expressed.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Yours sincerely,

ARTHUR J. GOLDBERG,  
*Secretary of Labor.*

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GENERAL COUNSEL  
OF THE DEPARTMENT OF COMMERCE,  
Washington, D.C., August 21, 1961.

HON. DENNIS CHAVEZ,  
*Chairman, Committee on Public Works,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department with respect to S. 856, a bill to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

S. 856 would create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin for specified purposes.

The Department of the Interior, on behalf of all executive agencies concerned, has reported to your committee, by letter dated August 15, 1961, its views on this legislation together with a number of suggested amendments. This is to advise you of this Department's concurrence in that report, and that we would not object to S. 856 if so amended.

The Bureau of the Budget advises that there would be no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

ROBERT E. GILES.

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THE GENERAL COUNSEL OF THE TREASURY,  
Washington, August 23, 1961.

HON. DENNIS CHAVEZ,  
*Chairman, Committee on Public Works,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on S. 856, to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

The subject matter of the proposed legislation is not of primary interest to this Department and the Department is not in a position to comment on its general merits. However, the proposed compact has certain tax and fiscal implications which are of concern to this Department. In that connection, it is understood that the Department of Interior is submitting a substitute for part II, article 15, which includes, among other things, the following provisions:

"Except to the same extent that State bonds are or may continue to be free or exempt from Federal taxation under the internal revenue laws of the United States, nothing contained in the compact shall be construed as freeing or exempting from internal revenue taxation in any manner whatsoever any bonds issued by the commission, their transfer, or the income therefrom (including any profits made on the sale thereon)."

\* \* \* \* \*

"Nothing contained in the compact shall be construed to obligate the United States legally or morally to pay the principal or interest on any bonds issued by the Delaware River Basin Commission."

The foregoing provisions have been reviewed by, and have the approval of, the Department and it is recommended that they be given favorable consideration by your committee.



The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report to your committee.

Sincerely yours,

ROBERT H. KNIGHT,  
*General Counsel.*

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DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,  
*August 25, 1961.*

HON. DENNIS CHAVEZ,  
*Chairman, Committee on Public Works,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for a report on S. 856, a bill to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, power, and duties of such agency.

In order to give your committee the benefit of the coordinated views of the executive branch before the end of the current session of the Congress, the Department of Interior has been authorized to make its report on behalf of all Federal executive agencies. We concur in those portions of the report relating to the program interests of this Department. With respect to the bill as a whole, we defer to those agencies most closely affected.

Sincerely,

WILBUR J. COHEN,  
*Assistant Secretary.*

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FEDERAL POWER COMMISSION,  
*Washington, August 24, 1961.*

Re S. 856, 87th Congress, to create a regional agency for the planning of the Delaware River Basin.

HON. DENNIS CHAVEZ,  
*Chairman, Committee on Public Works,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: In response to your request of February 14, 1961, there are enclosed three copies of the report of the Federal Power Commission on the subject bill.

The Bureau of the Budget advises that while there would be no objection to the submission of whatever report the Commission deems appropriate, you are advised that the Department of the Interior believes that subsection 15.1(r) of its proposed amendments to S. 856 already accomplishes the objectives of the additional amendment being proposed in the Commission's report.

It is contemplated that this report may be released to the public within three working days from the date of this letter unless there is a request that its release be withheld.

Sincerely yours,

JEROME K. KUYKENDALL,  
*Chairman.*

## FEDERAL POWER COMMISSION REPORT ON S. 856, 87TH CONGRESS

A bill to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency

By the bill the United States would consent to and join the States of Delaware, New Jersey, and New York, and the Commonwealth of Pennsylvania in a Delaware River Basin compact or agreement creating a Delaware River Basin Commission and substitute such commission for existing Federal and State agencies in planning, conservation, utilization, development, management and control of the water resources of the Delaware River Basin.

The membership of the Delaware River Basin Commission would consist of the Governors of each of the four States, and a Federal member to be appointed by the President of the United States. Each of the five members would appoint an alternate to act in his place and stead. Each of the five members would have one vote, and no action may be taken by the commission unless a majority shall vote in favor thereof.

The Delaware River Basin Commission would be created as a body politic and corporate acting as an agency and instrumentality of the United States and of the four States. The commission created by the bill would constitute a unique intergovernmental agency or partnership for the control of the water resources of a river basin. The bill would create an experiment without precedent in the area of Federal-State relationships.

The bill, which incorporates the proposed compact, would authorize the Delaware River Basin Commission to construct and operate projects in the basin. Construction would be financed by the commission through the issuance of its revenue bonds, or by loans or grants. Pursuant to section 3.8, a project could not be undertaken by any person, corporation, or governmental authority without approval by the Delaware River Basin Commission.

The unique combination of Federal and State functions in the Delaware River Basin Commission may result in difficulties in the marketing of its revenue bonds. In that event, and if it is otherwise unable to obtain loans or grants, the commission may not be able to proceed with the development of the basin. Moreover, the bill does not contain the safeguards and standards which have been developed by the Congress over the years for the licensing of projects in river basins. Consequently, if the repealer provisions of section 15.1 of the bill are enacted without appropriate amendments to the bill, the safeguards and standards of the Federal Power Act may be superseded with respect to projects constructed in the basin after enactment of the bill.

It appears that S. 856 is the counterpart of House Joint Resolution 225, 87th Congress, which was amended and passed the House on June 29, 1961. Section 15.1(u) of the House amendment of June 29, 1961 (107 Congressional Record 10995) reads as follows:

“(u) That nothing contained in the Compact shall be construed as in any manner impairing or affecting the licensing and regulatory



powers of any other officer, agency or instrument of the United States; provided that any exercise of such licensing or regulatory powers in the Delaware River Basin shall not substantially conflict with any portion of the comprehensive plan adopted pursuant to section 13.1 of the Compact, except as the comprehensive plan or any part thereof may be suspended pursuant to paragraph '(t)' of this section."

A report of the Federal executive agencies was submitted to the chairman of the Senate Committee on Public Works under date of August 15, 1961, by the Secretary of the Interior. The Commission would have no objection to enactment of S. 856 provided it is amended as proposed by the Secretary of the Interior and, in addition, that it is amended to include a provision substantially as provided in section 15.1(u) of the House amendment of June 29, 1961, which is quoted above.

FEDERAL POWER COMMISSION,  
By \_\_\_\_\_, *Chairman.*

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COMPTROLLER GENERAL OF THE UNITED STATES,  
*Washington, April 3, 1961.*

B-145065

HON. DENNIS CHAVEZ,  
*Chairman, Committee on Public Works,  
U.S. Senate.*

DEAR MR. CHAIRMAN: Your letter of February 14, 1961, requests our comments on S. 856. The bill would create a regional agency by intergovernmental compact for the management and control of water and related natural resources of the Delaware River Basin.

We have no special information concerning the desirability of establishing the regional agency proposed by S. 856, and, therefore, we make no recommendation concerning the merits of the proposal. However, there are some matters concerning the bill we would like to bring to the attention of your committee.

The language of S. 856 would not only secure the consent to and approval of the Congress to the compact but make the Federal Government a party thereto subject to its provisions. See the last "whereas" clause on page 4 as well as the last 5 lines on that page together with section 1.2(h). A review of some of the interstate compacts indicates that the "intergovernmental" type of compact envisioned by S. 856 is unique. The compacts approved by the Congress which we have examined are without exception exclusively between the States concerned, becoming effective upon the consent and approval of the Congress. In other words the Congress has merely assented to the compacts. See for example 73 Stat. 290; *id.* 575; *id.* 694; 33 U.S.C. 11; *id.* 466b; *id.* 567, 567a and note; 16 U.S.C. 667a; and 43 U.S.C. 617l.

Also, we have the following comments on specific provisions of the bill:

Article 2 provides that the commission membership shall consist of the Governors of the signatory States (Delaware, New Jersey, New York, and Pennsylvania) and one representative of the United States, with each member entitled to one vote with a majority of votes to govern any commission action. No Federal veto power is provided



in the compact, except that section 1.4 preserves the powers of the Congress in connection with the control of navigable waters and the regulation of interstate commerce. This section also recognizes the power and right of the Congress to withdraw the Federal Government as a party to the compact or to revise or modify the terms, conditions and provisions under which it (the Government) may remain a party, by amendment, repeal, or modification of any Federal statute applicable thereto. Otherwise it seems that all controversial matters could be decided in accordance with the desires of the States involved.

Section 3.9(d) of the bill provides that the commission created by the compact may qualify as a sponsoring agency under any Federal legislation enacted to provide financial or other assistance for the planning, conservation, utilization, development, management or control of water resources. We suggest that the bill specifically provide whether the monetary value of any financial or other assistance provided under any Federal legislation should be deducted from any funds the Federal Government may otherwise be required to provide for projects of the commission under the compact or agreements entered into pursuant to the compact.

Section 14.11(a) of the bill provides that financial accounts of the commission shall be audited annually by qualified public accountants selected by the commission. Some States have dual licensing and recognize officially both public accountants and certified public accounts. Therefore, we suggest that section 14.11(a) be changed to read as follows:

"The accounts of the commission shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants or independent licensed public accountants, certified or licensed by a regulatory authority of a State or other political subdivision of the United States."

Sincerely yours,

FRANK H. WEITZEL,  
*Assistant Comptroller General of the United States.*





Calendar No. 968

87TH CONGRESS  
1ST SESSION

# S. 856

[Report No. 985]

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 1961

Mr. CLARK (for himself, Mr. CASE of New Jersey, Mr. BOGGS, Mr. JAVITS, Mr. KEATING, Mr. SCOTT, Mr. WILLIAMS of Delaware, and Mr. WILLIAMS of New Jersey) introduced the following bill; which was read twice and referred to the Committee on Public Works

SEPTEMBER 12, 1961

Reported by Mr. KERR, with an amendment

[Omit the part struck through and insert the part printed in *italic*]

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# A BILL

To create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

## PART I

## COMPACT

Whereas the signatory parties recognize the water and related resources of the Delaware Basin as regional assets vested



with local, State, and National interests, for which they have a joint responsibility; and

Whereas the conservation, utilization, development, management, and control of the water and related resources of the Delaware River Basin under a comprehensive multipurpose plan will bring the greatest benefits and produce the most efficient service in the public welfare; and

Whereas such a comprehensive plan administered by a basinwide agency will provide effective flood damage reduction; conservation and development of ground and service water supply for municipal, industrial, and agricultural uses; development of recreational facilities in relation to reservoirs, lakes, and streams; propagation of fish and game; promotion of related forestry, soil conservation, and watershed projects; protection and aid to fisheries dependent upon water resources; development of hydroelectric power potentialities; improved navigation; control of the movement of salt water; abatement and control of stream pollution; and regulation of stream flows toward the attainment of these goals; and

Whereas decisions of the United States Supreme Court relating to the waters of the basin have confirmed the interstate regional character of the water resources of the Delaware River Basin, and the United States Corps of Engineers has in a prior report on the Delaware River Basin (House Document 179, Seventy-third Congress, second session) officially recognized the need for an interstate agency and the economies that can result from unified development and control of the water resources of the basin; and

Whereas the water resources of the basin are presently subject to the duplicating, overlapping, and uncoordinated administration of some forty-three State agencies, fourteen interstate

agencies, and nineteen Federal agencies which exercise a multiplicity of powers and duties resulting in a splintering of authority and responsibilities; and

Whereas the joint advisory body known as the Interstate Commission on the Delaware River Basin (INCodel), created by the respective commissions or Committee on Interstate Cooperation of the States of Delaware, New Jersey, New York, and Pennsylvania, has on the basis of its extensive investigations, surveys, and studies concluded that regional development of the Delaware River Basin is feasible, advisable, and urgently needed; and has recommended that an interstate compact with Federal participation be consummated to this end; and

Whereas the Congress of the United States and the executive branch of the Government have recognized the national interest in the Delaware River Basin by authorizing and directing the Corps of Engineers, Department of the Army, to make a comprehensive survey and report on the water and related resources of the Delaware River Basin, enlisting the technical aid and planning participation of many Federal, State, and municipal agencies dealing with the waters of the basin, and in particular the Federal Departments of Agriculture, Commerce, Health, Education, and Welfare, and Interior, and the Federal Power Commission; and

Whereas some twenty-two million people of the United States at present live and work in the region of the Delaware River Basin and its environs, and the government, employment, industry, and economic development of the entire region and the health, safety, and general welfare of its population are and will continue to be vitally affected by the use, conserva-

tion, management, and control of the water and related resources of the Delaware River Basin; and

Whereas demands upon the waters and related resources of the basin are expected to mount rapidly because of the anticipated increase in the population of the region projected to reach thirty million by 1980 and forty million by 2010, and because of the anticipated increase in industrial growth projected to double by 1980; and

Whereas water resources planning and development is technical, complex, and expensive, and has often required fifteen to twenty years from the conception to the completion of a large dam and reservoir; and

Whereas the public interest requires that facilities must be ready and operative when needed, to avoid the catastrophe of unexpected floods or prolonged drought, and for other purposes; and

Whereas the Delaware River Basin Advisory Committee, a temporary body constituted by the Governors of the four basin States and the mayors of the cities of New York and Philadelphia, has prepared a draft of an interstate-Federal compact for the creation of a basin agency, and the signatory parties desire to effectuate the purposes thereof: Now therefore

1        *Be it enacted by the Senate and House of Representa-*  
 2        *tives of the United States of America in Congress assembled,*  
 3        That the United States hereby consents to, and joins the  
 4        States of Delaware, New Jersey, and New York and the  
 5        Commonwealth of Pennsylvania in, the following compact:



## ARTICLE 1

## SHORT TITLE, DEFINITIONS, PURPOSE AND LIMITATIONS

Section 1.1 Short Title. This act shall be known and may be cited as the Delaware River Basin Compact.

1.2 Definitions. For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(a) "Basin" shall mean the area of drainage into the Delaware River and its tributaries, including Delaware Bay;

(b) "Commission" shall mean the Delaware River Basin Commission created and constituted by this compact;

(c) "Compact" shall mean Part I of this act.

(d) "Cost" shall mean direct and indirect expenditures, commitment, and net induced adverse effects, whether or not compensated for, used or incurred in connection with the establishment, acquisition, construction, maintenance and operation of a project;

(e) "Facility" shall mean any real or personal property, within or without the basin, and improvements thereof or thereon, and any and all rights of way, water, water rights, plants, structures, machinery and equipment, acquired, constructed, operated or maintained for the beneficial use of water resources or related land uses including,

1 without limiting the generality of the foregoing, any and  
2 all things and appurtenances necessary, useful or convenient  
3 for the control, collection, storage, withdrawal, diversion,  
4 release, treatment, transmission, sale or exchange of water;  
5 or for navigation thereon, or the development and use of  
6 hydroelectric energy and power, and public recreational  
7 facilities; or the propagation of fish and wildlife; or to con-  
8 serve and protect the water resources of the basin or any  
9 existing or future water supply source, or to facilitate any  
10 other uses of any of them;

11 (f) "Federal government" shall mean the government  
12 of the United States of America, and any appropriate  
13 branch, department, bureau or division thereof, as the case  
14 may be;

15 (g) "Project" shall mean any work, service or activity  
16 which is separately planned, financed, or identified by the  
17 commission, or any separate facility undertaken or to be  
18 undertaken within a specified area, for the conservation,  
19 utilization, control, development or management of water  
20 resources which can be established and utilized independently  
21 or as an addition to an existing facility, and can be con-  
22 sidered as a separate entity for purposes of evaluation;

23 (h) "Signatory party" shall mean a state or common-  
24 wealth party to this compact, and the federal government;

25 (i) "Water resources" shall include water and related

1 natural resources in, on, under, or above the ground, includ-  
2 ing related uses of land, which are subject to beneficial use,  
3 ownership or control.

4 1.3 Purpose and Findings. The legislative bodies of  
5 the respective signatory parties hereby find and declare:

6 (a) The water resources of the basin are affected with  
7 a local, state, regional and national interest and their plan-  
8 ning, conservation, utilization, development, management  
9 and control, under appropriate arrangements for intergov-  
10 ernmental cooperation, are public purposes of the respective  
11 signatory parties.

12 (b) The water resources of the basin are subject to  
13 the sovereign right and responsibility of the signatory parties,  
14 and it is the purpose of this compact to provide for a joint  
15 exercise of such powers of sovereignty in the common in-  
16 terests of the people of the region.

17 (c) The water resources of the basin are functionally  
18 inter-related, and the uses of these resources are interde-  
19 pendent. A single administrative agency is therefore es-  
20 sential for effective and economical direction, supervision and  
21 coordination of efforts and programs of federal, state and local  
22 governments and of private enterprise.

23 (d) The water resources of the Delaware River Basin,  
24 if properly planned and utilized, are ample to meet all  
25 presently projected demands, including existing and added



1 diversions in future years and ever increasing economies and  
2 efficiencies in the use and reuse of water resources can be  
3 brought about by comprehensive planning, programming and  
4 management.

5 (e) In general, the purposes of this compact are to  
6 promote interstate comity; to remove causes of present and  
7 future controversy; to make secure and protect present devel-  
8 opments within the states; to encourage and provide for the  
9 planning, conservation, utilization, development, manage-  
10 ment and control of the water resources of the basin; to  
11 provide for cooperative planning and action by the signa-  
12 tory parties with respect to such water resources; and to  
13 apply the principle of equal and uniform treatment to all  
14 water users who are similarly situated and to all users of  
15 related facilities, without regard to established political  
16 boundaries.

17 1.4 Powers of Congress; Withdrawal. Nothing in this  
18 compact shall be construed to relinquish the functions,  
19 powers or duties of the Congress of the United States with  
20 respect to the control of any navigable waters within the  
21 basin, nor shall any provision hereof be construed in deroga-  
22 tion of any of the constitutional powers of the Congress  
23 to regulate commerce among the states and with foreign  
24 nations. The power and right of the Congress to withdraw

1 the federal government as a party to this compact or to  
2 revise or modify the terms, conditions and provisions under  
3 which it may remain a party by amendment, repeal or  
4 modification of any federal statute applicable thereto is  
5 recognized by the signatory parties.

6 1.5 Existing Agencies; Construction. It is the purpose  
7 of the signatory parties to preserve and utilize the functions,  
8 powers and duties of existing offices and agencies of govern-  
9 ment to the extent not inconsistent with the compact, and the  
10 commission is authorized and directed to utilize and employ  
11 such offices and agencies for the purpose of this compact to  
12 the fullest extent it finds feasible and advantageous.

13 1.6 Duration of Compact.

14 (a) The duration of this compact shall be for an initial  
15 period of 100 years from its effective date, and it shall be  
16 continued for additional periods of 100 years if not later than  
17 20 years nor sooner than 25 years prior to the determination  
18 of the initial period or any succeeding period none of the  
19 signatory states, by authority of an act of its legislature,  
20 notifies the commission of intention to terminate the com-  
21 pact at the end of the then current 100 year period.

22 (b) In the event that this compact should be termi-  
23 nated by operation of paragraph (a) above, the commission

1 shall be dissolved, its assets and liabilities transferred, and  
2 its corporate affairs wound up, in such manner as may be  
3 provided by act of the Congress.

## 4 ARTICLE 2

### 5 ORGANIZATION AND AREA

6 Section 2.1 Commission Created. The Delaware River  
7 Basin Commission is hereby created as a body politic and  
8 corporate, with succession for the duration of this compact,  
9 as an agency and instrumentality of the governments of the  
10 respective signatory parties.

11 2.2 Commission Membership. The commission shall  
12 consist of the Governors of the signatory states, ex officio, and  
13 one commissioner to be appointed by the President of the  
14 United States to serve during the term of office of the  
15 President.

16 2.3 Alternates. Each member of the commission shall  
17 appoint an alternate to act in his place and stead, with  
18 authority to attend all meetings of the commission, and with  
19 power to vote in the absence of the member. Unless other-  
20 wise provided by law of the signatory party for which he is  
21 appointed, each alternate shall serve during the term of the  
22 member appointing him, subject to removal at the pleasure  
23 of the member. In the event of a vacancy in the office of  
24 alternate, it shall be filled in the same manner as an original  
25 appointment for the unexpired term only.



1       2.4 Compensation. Members of the commission and  
2 alternates shall serve without compensation but may be  
3 reimbursed for necessary expenses incurred in and in-  
4 cident to the performance of their duties.

5       2.5 Voting Power. Each member shall be entitled to  
6 one vote on all matters which may come before the com-  
7 mission. No action of the commission shall be taken at  
8 any meeting unless a majority of the membership shall  
9 vote in favor thereof.

10       2.6 Organization and Procedure. The commission  
11 shall provide for its own organization and procedure, and  
12 shall adopt rules and regulations governing its meetings  
13 and transactions. It shall organize annually by the election  
14 of a chairman and vice-chairman from among its members.  
15 It shall provide by its rules for the appointment by each  
16 member in his discretion of an advisor to serve without com-  
17 pensation, who may attend all meetings of the commission  
18 and its committees.

19       2.7 Jurisdiction of the Commission. The commission  
20 shall have, exercise and discharge its functions, powers and  
21 duties within the limits of the basin, except that it may in  
22 its discretion act outside the basin whenever such action  
23 may be necessary or convenient to effectuate its powers or  
24 duties within the basin, or to sell or dispose of water, hydro-  
25 electric power or other water resources within or without

1 the basin. The commission shall exercise such power out-  
2 side the basin only upon the consent of the state in which  
3 it proposes to act.

### 4 ARTICLE 3

#### 5 POWERS AND DUTIES OF THE COMMISSION

6 Section 3.1. Purpose and Policy. The commission  
7 shall develop and effectuate plans, policies and projects relat-  
8 ing to the water resources of the basin. It shall adopt and  
9 promote uniform and coordinated policies for water con-  
10 servation, control, use and management in the basin. It  
11 shall encourage the planning, development and financing of  
12 water resources projects according to such plans and policies.

13 3.2 Comprehensive Plan, Program and Budgets.  
14 The commission shall, in accordance with Article 13 of this  
15 compact, formulate and adopt:

16 (a) A comprehensive plan, after consultation with water  
17 users and interested public bodies, for the immediate and  
18 long range development and uses of the water resources of  
19 the basin;

20 (b) A water resources program, based upon the com-  
21 prehensive plan, which shall include a systematic presenta-  
22 tion of the quantity and quality of water resources needs of  
23 the area to be served for such reasonably foreseeable period  
24 as the commission may determine, balanced by existing and  
25 proposed projects required to satisfy such needs, including

1 all public and private projects affecting the basin, together  
2 with a separate statement of the projects proposed to be  
3 undertaken by the commission during such period; and

4 (c) An annual current expense budget, and an annual  
5 capital budget consistent with the water resources program  
6 covering the commission's projects and facilities for the  
7 budget period.

8 3.3 Allocations, Diversions and Releases. The com-  
9 mission shall have the power from time to time as need  
10 appears, in accordance with the doctrine of equitable appor-  
11 tionment, to allocate the waters of the basin to and among  
12 the states signatory to this compact and to and among their  
13 respective political subdivisions, and to impose conditions,  
14 obligations and release requirements related thereto, subject  
15 to the following limitations:

16 (a) The commission, without the unanimous consent  
17 of the parties to the United States Supreme Court decree  
18 in *New Jersey v. New York*, 347 U.S. 995 (1954), shall  
19 not impair, diminish or otherwise adversely affect the diver-  
20 sions, compensating releases, rights, conditions, obligations,  
21 and provisions for the administration thereof as provided in  
22 said decree; provided, however, that after consultation with  
23 the river master under said decree the commission may find  
24 and declare a state of emergency resulting from a drought  
25 or catastrophe and it may thereupon by unanimous consent



1 of its members authorize and direct an increase or decrease  
2 in any allocation or diversion permitted or releases required  
3 by the decree, in such manner and for such limited time as  
4 may be necessary to meet such an emergency condition.

5 (b) No allocation of waters hereafter made pursuant  
6 to this section shall constitute a prior appropriation of the  
7 waters of the basin or confer any superiority of right in re-  
8 spect to the use of those waters, nor shall any such action  
9 be deemed to constitute an apportionment of the waters of  
10 the basin among the parties hereto; provided that this para-  
11 graph shall not be deemed to limit or restrict the power of  
12 the commission to enter into covenants with respect to water  
13 supply, with a duration not exceeding the life of this com-  
14 pact, as it may deem necessary for the benefit or develop-  
15 ment of the water resources of the basin.

16 (c) Any proper party deeming itself aggrieved by ac-  
17 tion of the commission with respect to an out-of-basin diver-  
18 sion or compensating releases in connection therewith, not-  
19 withstanding the powers delegated to the commission by  
20 this compact may invoke the original jurisdiction of the  
21 United States Supreme Court within one year after such  
22 action for an adjudication and determination thereof de novo.  
23 Any other action of the commission pursuant to this section

1 shall be subject to judicial review in any court of com-  
2 petent jurisdiction.

3       3.4 Supreme Court Decree; Waivers. Each of the sig-  
4 natory states and their respective political subdivisions, in  
5 consideration of like action by the others, and in recognition  
6 of reciprocal benefits, hereby waives and relinquishes for the  
7 duration of this compact any right, privilege or power it  
8 may have to apply for any modification of the terms of the  
9 decree of the United States Supreme Court in *New Jersey v.*  
10 *New York*, 347 U.S. 995 (1954) which would increase or  
11 decrease the diversions authorized or increase or decrease  
12 the releases required thereunder, except that a proceeding to  
13 modify such decree to increase diversions or compensating  
14 releases in connection with such increased diversions may  
15 be prosecuted by a proper party to effectuate rights, powers,  
16 duties and obligations under Section 3.3 of this compact, and  
17 except as may be required to effectuate the provisions of  
18 paragraphs IIIB3 and VB of said decree.

19       3.5 Supreme Court Decree; Specific Limitations on  
20 Commission. Except as specifically provided in Sections 3.3  
21 and 3.4 of this article, nothing in this compact shall be con-  
22 strued in any way to impair, diminish or otherwise adversely  
23 affect the rights, powers, privileges, conditions and obligations

1 contained in the decree of the United States Supreme Court  
2 in New Jersey v. New York, 347 U.S. 995 (1954). To  
3 this end, and without limitation thereto, the commission shall  
4 not:

5 (a) Acquire, construct or operate any project or facility  
6 or make any order or take any action which would impede  
7 or interfere with the rights, powers, privileges, conditions or  
8 obligations contained in said decree;

9 (b) Impose or collect any fee, charge or assessment  
10 with respect to diversions of waters of the basin permitted  
11 by said decree;

12 (c) Exercise any jurisdiction, except upon consent of  
13 all the parties to said decree, over the planning, design, con-  
14 struction, operation or control of any projects, structures or  
15 facilities constructed or used in connection with withdrawals,  
16 diversions and releases of waters of the basin authorized by  
17 said decree or of the withdrawals, diversions or releases to  
18 be made thereunder; or

19 (d) Serve as river master under said decree, except  
20 upon consent of all the parties thereto.

21 3.6 General Powers. The commission may:

22 (a) Plan, design, acquire, construct, reconstruct, com-  
23 plete, own, improve, extend, develop, operate and maintain  
24 any and all projects, facilities, properties, activities and serv-



1 ices, determined by the commission to be necessary, con-  
2 venient or useful for the purposes of this compact;

3 (b) Establish standards of planning, design and opera-  
4 tion of all projects and facilities in the basin which affect its  
5 water resources, including without limitation thereto water  
6 and waste treatment plants, stream and lake recreational  
7 facilities, trunk mains for water distribution, local flood pro-  
8 tection works, small watershed management programs, and  
9 ground water recharging operations;

10 (c) Conduct and sponsor research on water resources,  
11 their planning, use, conservation, management, development,  
12 control and protection, and the capacity, adaptability and  
13 best utility of each facility thereof, and collect, compile, cor-  
14 relate, analyze, report and interpret data on water resources  
15 and uses in the basin, including without limitation thereto  
16 the relation of water to other resources, industrial water tech-  
17 nology, ground water movement, relation between water  
18 price and water demand, and general hydrological conditions;

19 (d) Compile and coordinate systematic stream stage  
20 and ground water level forecasting data, and publicize such  
21 information when and as needed for water uses, flood warn-  
22 ing, quality maintenance or other purposes;

23 (e) Conduct such special ground water investigations

1 tests, and operations and compile such data relating thereto  
2 as may be required to formulate and administer the compre-  
3 hensive plan;

4 (f) Prepare, publish and disseminate information and  
5 reports with respect to the water problems of the basin and  
6 for the presentation of the needs, resources and policies of  
7 the basin to executive and legislative branches of the signa-  
8 tory parties;

9 (g) Negotiate for such loans, grants, services or other  
10 aids as may be lawfully available from public or private  
11 sources to finance or assist in effectuating any of the purposes  
12 of this compact; and to receive and accept such aid upon  
13 such terms and conditions, and subject to such provisions for  
14 repayment as may be required by federal or state law or  
15 as the commission may deem necessary or desirable;

16 (h) Exercise such other and different powers as may be  
17 delegated to it by this compact or otherwise pursuant to law,  
18 and have and exercise all powers necessary or convenient  
19 to carry out its express powers or which may be reasonably  
20 implied therefrom.

21 3.7 Rates and Charges. The commission may from  
22 time to time after public notice and hearing fix, alter and  
23 revise rates, rentals, charges and tolls and classifications

1 thereof, for the use of facilities which it may own or operate  
2 and for products and services rendered thereby, without  
3 regulation or control by any department, office or agency of  
4 any signatory party.

5       3.8 Referral and Review. No project having a sub-  
6 stantial effect on the water resources of the basin shall here-  
7 after be undertaken by any person, corporation or govern-  
8 mental authority unless it shall have been first submitted to  
9 and approved by the commission, subject to the provisions of  
10 Sections 3.3 and 3.5. The commission shall approve a  
11 project whenever it finds and determines that such project  
12 would not substantially impair or conflict with the compre-  
13 hensive plan and may modify and approve as modified, or  
14 may disapprove any such project whenever it finds and de-  
15 termines that the project would substantially impair or con-  
16 flict with such plan. The commission shall provide by regu-  
17 lation for the procedure of submission, review and considera-  
18 tion of projects, and for its determinations pursuant to this  
19 section. Any determination of the commission hereunder  
20 shall be subject to judicial review in any court of competent  
21 jurisdiction.

22       3.9 Coordination and Cooperation. The commission  
23 shall promote and aid the coordination of the activities and



1 programs of federal, state, municipal and private agencies  
2 concerned with water resources administration in the basin.  
3 To this end, but without limitation thereto, the commission  
4 may:

5 (a) Advise, consult, contract, financially assist, or  
6 otherwise cooperate with any and all such agencies;

7 (b) Employ any other agency or instrumentality of  
8 any of the signatory parties or of any political subdivision  
9 thereof, in the design, construction, operation and mainte-  
10 nance of structures, and the installation and management of  
11 river control systems, or for any other purpose;

12 (c) Develop and adopt plans and specifications for  
13 particular water resources projects and facilities which so  
14 far as consistent with the comprehensive plan incorporate  
15 any separate plans of other public and private organizations  
16 operating in the basin, and permit the decentralized admin-  
17 istration thereof;

18 (d) Qualify as a sponsoring agency under any federal  
19 legislation heretofore or hereafter enacted to provide financial  
20 or other assistance for the planning, conservation, utilization,  
21 development, management or control of water resources.

22 3.10 Advisory Committees. The commission may  
23 constitute and empower advisory committees, which may be  
24 comprised of representatives of the public and of federal,  
25 state, county and municipal governments, water resources

1 agencies, water-using industries, water-interest groups, labor  
2 and agriculture.

#### 3 ARTICLE 4

#### 4 WATER SUPPLY

5 SECTION 4.1 Generally. The commission shall have  
6 power to develop, implement and effectuate plans and proj-  
7 ects for the use of the water of the basin for domestic,  
8 municipal, agricultural and industrial water supply. To this  
9 end, without limitation thereto, it may provide for, construct,  
10 acquire, operate and maintain dams, reservoirs and other  
11 facilities for utilization of surface and ground water resources,  
12 and all related structures, appurtenances and equipment on  
13 the river and its tributaries and at such off-river sites as  
14 it may find appropriate, and may regulate and control the  
15 use thereof.

#### 16 4.2 Storage and Release of Waters.

17 (a) The commission shall have power to acquire, oper-  
18 ate and control projects and facilities for the storage and  
19 release of waters, for the regulation of flows and supplies of  
20 surface and ground waters of the basin, for the protection of  
21 public health, stream quality control, economic development,  
22 improvement of fisheries, recreation, dilution and abatement  
23 of pollution, the prevention of undue salinity and other  
24 purposes.

25 (b) No signatory party shall permit any augmentation

1 of flow to be diminished by the diversion of any water of  
2 the basin during any period in which waters are being re-  
3 leased from storage under the direction of the commission  
4 for the purpose of augmenting such flow, except in cases  
5 where such diversion is duly authorized by this compact, or  
6 by the commission pursuant thereto, or by the judgment,  
7 order or decree of a court of competent jurisdiction.

8       4.3 Assessable Improvements. The commission may  
9 undertake to provide stream regulation in the main stream  
10 or any tributary in the basin and may assess on an annual  
11 basis or otherwise the cost thereof upon water users or any  
12 classification of them specially benefited thereby to a meas-  
13 urable extent, provided that no such assessment shall exceed  
14 the actual benefit to any water user. Any such assess-  
15 ment shall follow the procedure prescribed by law for local  
16 improvement assessments and shall be subject to judicial re-  
17 view in any court of competent jurisdiction.

18       4.4 Coordination. Prior to entering upon the execu-  
19 tion of any project authorized by this article, the commission  
20 shall review and consider all existing rights, plans and pro-  
21 grams of the signatory parties, their political subdivisions,  
22 private parties, and water users which are pertinent to  
23 such project, and shall hold a public hearing on each pro-  
24 posed project.

25       4.5 Additional Powers. In connection with any proj-



1 ect authorized by this article, the commission shall have  
2 power to provide storage, treatment, pumping and trans-  
3 mission facilities, but nothing herein shall be construed to  
4 authorize the commission to engage in the business of dis-  
5 tributing water.

## 6 ARTICLE 5

### 7 POLLUTION CONTROL

8 Section 5.1 General Powers. The commission may  
9 undertake investigations and surveys, and acquire, construct,  
10 operate and maintain projects and facilities to control poten-  
11 tial pollution and abate or dilute existing pollution of the  
12 water resources of the basin. It may invoke as complainant  
13 the power and jurisdiction of water pollution abatement  
14 agencies of the signatory parties.

15 5.2 Policy and Standards. The commission may as-  
16 sume jurisdiction to control future pollution and abate exist-  
17 ing pollution in the waters of the basin, whenever it deter-  
18 mines after investigation and public hearing upon due notice  
19 that the effectuation of the comprehensive plan so requires.  
20 The standard of such control shall be that pollution by sew-  
21 age or industrial or other waste originating within a signatory  
22 state shall not injuriously affect waters of the basin as con-  
23 templated by the comprehensive plan. The commission,  
24 after such public hearing may classify the waters of the  
25 basin and establish standards of treatment of sewage, indus-

1 industrial or other waste, according to such classes including  
2 allowance for the variable factors of surface and ground  
3 waters, such as size of the stream, flow, movement, location,  
4 character, self-purification, and usage of the waters affected.  
5 After such investigation, notice and hearing the commis-  
6 sion may adopt and from time to time amend and repeal  
7 rules, regulations and standards to control such future pollu-  
8 tion and abate existing pollution, and to require such treat-  
9 ment of sewage, industrial or other waste within a time  
10 reasonable for the construction of the necessary works, as  
11 may be required to protect the public health or to preserve  
12 the waters of the basin for uses in accordance with the com-  
13 prehensive plan.

14       5.3 Cooperative Legislation and Administration. Each  
15 of the signatory parties covenants and agrees to prohibit and  
16 control pollution of the waters of the basin according to the  
17 requirements of this compact and to cooperate faithfully  
18 in the control of future pollution in and abatement of existing  
19 pollution from the rivers, streams, and waters in the basin  
20 which flow through, under, into or border upon any of such  
21 signatory states, and in order to effect such object, agrees  
22 to enact any necessary legislation to enable each such party  
23 to place and maintain the waters of said basin in a satisfac-  
24 tory condition, available for safe and satisfactory use as  
25 public and industrial water supplies after reasonable treat-

1 ment, suitable for recreational usage, capable of maintaining  
2 fish and other aquatic life, free from unsightly or malodorous  
3 nuisances due to floating solids or sludge deposits and adapt-  
4 able to such other uses as may be provided by the compre-  
5 hensive plan.

6       5.4 Enforcement. The commission may, after investi-  
7 gation and hearing, issue an order or orders upon any person  
8 or public or private corporation, or other entity, to cease  
9 the discharge of sewage, industrial or other waste into waters  
10 of the basin which it determines to be in violation of such  
11 rules and regulations as it shall have adopted for the pre-  
12 vention and abatement of pollution. Any such order or  
13 orders may prescribe the date, including a reasonable time  
14 for the construction of any necessary works, on or before  
15 which such discharge shall be wholly or partially discon-  
16 tinued, modified or treated, or otherwise conformed to the  
17 requirements of such rules and regulations. Such order shall  
18 be reviewable in any court of competent jurisdiction. The  
19 courts of the signatory parties shall have jurisdiction to en-  
20 force against any person, public or private corporation, or  
21 other entity, any and all provisions of this Article or of  
22 any such order. The commission may bring an action in its  
23 own name in any such court of competent jurisdiction to  
24 compel compliance with any provision of this Article, or



1 any rule or regulation issued pursuant thereto or of any  
2 such order, according to the practice and procedure of the  
3 court.

4 5.5 Further Jurisdiction. Nothing in this compact  
5 shall be construed to repeal, modify or qualify the authority  
6 of any signatory party to enact any legislation or enforce any  
7 additional conditions and restrictions to lessen or prevent the  
8 pollution of waters within its jurisdiction.

## 9 ARTICLE 6

### 10 FLOOD PROTECTION

11 Section 6.1 General Powers. The commission may  
12 plan, design, construct and operate and maintain projects  
13 and facilities, as it may deem necessary or desirable for flood  
14 damage reduction. It shall have power to operate such facili-  
15 ties and to store and release waters on the Delaware River  
16 and its tributaries and elsewhere within the basin, in such  
17 manner, at such times, and under such regulations as the  
18 commission may deem appropriate to meet flood conditions  
19 as they may arise.

20 6.2 Flood Plain Zoning.

21 (a) The commission shall have power to adopt, amend  
22 and repeal recommended standards, in the manner provided  
23 by this section, relating to the nature and extent of the uses  
24 of land in areas subject to flooding by waters of the Delaware  
25 River and its tributaries. Such standards shall not be deemed

1 to impair or restrict the power of the signatory parties or  
2 their political subdivisions to adopt zoning and other land  
3 use regulations not inconsistent therewith.

4 (b) The commission may study and determine the  
5 nature and extent of the flood plains of the Delaware River  
6 and its tributaries. Upon the basis of such studies, it may  
7 establish encroachment lines and delineate the areas subject  
8 to flood, including a classification of lands with reference to  
9 relative risk of flood and the establishment of standards for  
10 flood plain use which will safeguard the public health, safety  
11 and property. Prior to the adoption of any standards  
12 delineating such area or defining such use, the commission  
13 shall hold public hearings, in the manner provided by Article  
14 14, with respect to the substance of such standards. At or  
15 before such public hearings the proposed standards shall be  
16 available, and all interested persons shall be given an oppor-  
17 tunity to be heard thereon at the hearing. Upon the adop-  
18 tion and promulgation of such standards, the commission  
19 may enter into agreements to provide technical and financial  
20 aid to any municipal corporation for the administration and  
21 enforcement of any local land use ordinances or regulations  
22 giving effect to such standards.

23 6.3 Flood Lands Acquisition. The commission shall  
24 have power to acquire the fee or any lesser interest in lands  
25 and improvements thereon within the area of a flood plain

1 for the purpose of restricting the use of such property so as to  
2 minimize the flood hazard, converting property to uses ap-  
3 propriate to flood plain conditions, or preventing unwar-  
4 ranted constrictions that reduce the ability of the river chan-  
5 nel to carry flood water. Any such action shall be in accord  
6 with the standards adopted and promulgated pursuant to  
7 Section 6.2.

#### 8 6.4 Flood and Stream Stage Warnings and Posting.

9 The commission may cause lands particularly subject to  
10 flood to be posted with flood hazard warnings, and may from  
11 time to time cause flood advisory notices to be published and  
12 circulated as conditions may warrant.

### 13 ARTICLE 7

#### 14 WATERSHED MANAGEMENT

15 Section 7.1 Watersheds Generally. The commission  
16 shall promote sound practices of watershed management in  
17 the basin, including projects and facilities to retard runoff  
18 and waterflow and prevent soil erosion.

19 7.2 Soil Conservation and Forestry. The commission  
20 may acquire, sponsor or operate facilities and projects to  
21 encourage soil conservation, prevent and control erosion,  
22 and to promote land reclamation and sound forestry practices.

23 7.3 Fish and Wildlife. The commission may acquire,  
24 sponsor or operate projects and facilities for the maintenance



1 and improvement of fish and wildlife habitats related to the  
2 water resources of the basin.

3 7.4 Cooperative Planning and Operation.

4 (a) The commission shall cooperate with the appropri-  
5 ate agencies of the signatory parties and with other public  
6 and private agencies in the planning and effectuation of a  
7 coordinated program of facilities and projects authorized by  
8 this Article.

9 (b) The commission shall not operate any such project  
10 or facility unless it has first found and determined that no  
11 other suitable unit or agency of government is available to  
12 operate the same upon reasonable conditions, in accordance  
13 with the intent and purpose expressed in Section 1.5 of this  
14 compact.

15 ARTICLE 8

16 RECREATION

17 Section 8.1 Development. The commission shall pro-  
18 vide for the development of water related public sports and  
19 recreational facilities. The commission on its own account  
20 or in cooperation with a signatory party, political subdivision  
21 or any agency thereof, may provide for the construction,  
22 maintenance and administration of such facilities, subject to  
23 the provisions of Section 8.2 hereof.

1        8.2 Cooperative Planning and Operation.

2        (a) The commission shall cooperate with the appro-  
3 priate agencies of the signatory parties and with other public  
4 and private agencies in the planning and effectuation of a  
5 coordinated program of facilities and projects authorized by  
6 this article.

7        (b) The commission shall not operate any such project  
8 or facility unless it has first found and determined that no  
9 other suitable unit or agency of government is available  
10 to operate the same upon reasonable conditions, in accord-  
11 ance with the intent and purpose expressed in Section 1.5  
12 of this compact.

13        8.3 Operation and Maintenance. The commission,  
14 within limits prescribed by this article, shall:

15        (a) Encourage activities of other public agencies hav-  
16 ing water related recreational interests and assist in the  
17 coordination thereof;

18        (b) Recommend standards for the development and  
19 administration of water related recreational facilities;

20        (c) Provide for the administration, operation and main-  
21 tenance of recreational facilities owned or controlled by the  
22 commission and for the letting and supervision of private  
23 concessions in accordance with this article.

24        8.4 Concessions. The commission shall after notice  
25 and public hearing provide by regulation for the award of

1 contracts for private concessions in connection with recrea-  
2 tional facilities, including any renewal or extension thereof,  
3 upon sealed competitive bids after public advertisement  
4 therefor.

## 5 ARTICLE 9

### 6 HYDROELECTRIC POWER

7 Section 9.1 Development. The waters of the Dela-  
8 ware River and its tributaries may be impounded and used  
9 by or under authority of the commission for the generation of  
10 hydroelectric power and hydroelectric energy, in accordance  
11 with the comprehensive plan.

12 9.2 Power Generation. The commission may develop  
13 and operate, or authorize to be developed and operated,  
14 dams and related facilities and appurtenances for the purpose  
15 of generating hydroelectric power and hydroelectric energy.

16 9.3 Transmission. The commission may provide fa-  
17 cilities for the transmission of hydroelectric power and hydro-  
18 electric energy produced by it where such facilities are not  
19 otherwise available upon reasonable terms, for the purpose  
20 of wholesale marketing of power and nothing herein shall  
21 be construed to authorize the commission to engage in the  
22 business of direct sale to consumers.

23 9.4 Development Contracts. The commission may  
24 after public notice and hearing enter into contracts on reason-  
25 able terms, consideration and duration under which public



1 utilities or public agencies may develop hydroelectric power  
2 and hydroelectric energy through the use of dams, related  
3 facilities and appurtenances.

4 9.5 Rates and Charges. Rates and charges fixed by  
5 the commission for power which is produced by its facilities  
6 shall be reasonable, nondiscriminatory, and just.

## 7 ARTICLE 10

### 8 REGULATION OF WITHDRAWALS AND DIVERSIONS

9 Section 10.1 Power of Regulation. The commission  
10 may regulate and control withdrawals and diversions from  
11 surface waters and ground waters of the basin, as provided  
12 by this article. The commission may enter into agreements  
13 with the signatory parties relating to the exercise of such  
14 power or regulation or control and may delegate to any of  
15 them such powers of the commission as it may deem neces-  
16 sary or desirable.

17 10.2 Determination of Protected Areas. The commis-  
18 sion may from time to time after public hearing upon due  
19 notice determine and delineate such areas within the basin  
20 wherein the demands upon supply made by water users  
21 have developed or threaten to develop to such a degree as to  
22 create a water shortage or to impair or conflict with the  
23 requirements or effectuation of the comprehensive plan, and  
24 any such areas may be designated as "protected areas."  
25 The commission, whenever it determines that such shortage

1 no longer exists, shall terminate the protected status of such  
2 area and shall give public notice of such termination.

3 10.3 Withdrawal Permits. In any protected areas so  
4 determined and delineated, no person, firm, corporation or  
5 other entity shall divert or withdraw water for domestic,  
6 municipal, agricultural or industrial uses in excess of such  
7 quantities as the commission may prescribe by general  
8 regulation, except (i) pursuant to a permit granted under  
9 this article, or (ii) pursuant to a permit or approval hereto-  
10 fore granted under the laws of any of the signatory states.

11 10.4 Emergency. In the event of a drought or other  
12 condition which may cause an actual and immediate short-  
13 age of available water supply within the basin, or within  
14 any part thereof, the commission may, after public hearing,  
15 determine and delineate the area of such shortage and declare  
16 a water supply emergency therein. For the duration of such  
17 emergency as determined by the commission no person,  
18 firm, corporation or other public or private entity shall divert  
19 or withdraw water for any purpose, in excess of such quan-  
20 tities as the commission may prescribe by general regula-  
21 tion or authorize by special permit granted hereunder.

22 10.5 Standards. Permits shall be granted, modified  
23 or denied as the case may be so as to avoid such depletion  
24 of the natural stream flows and ground waters in the pro-

1 tected area or in an emergency area as will adversely affect  
2 the comprehensive plan or the just and equitable interests  
3 and rights of other lawful users of the same source, giving  
4 due regard to the need to balance and reconcile alternative  
5 and conflicting uses in the event of an actual or threatened  
6 shortage of water of the quality required.

7       10.6 Judicial Review. The determinations and de-  
8 lineations of the commission pursuant to Section 10.2 and  
9 the granting, modification or denial of permits pursuant to  
10 Section 10.3 through 10.5 shall be subject to judicial review  
11 in any court of competent jurisdiction.

12       10.7 Maintenance of Records. Each state shall pro-  
13 vide for the maintenance and preservation of such records  
14 of authorized diversions and withdrawals and the annual  
15 volume thereof as the commission shall prescribe. Such  
16 records and supplementary reports shall be furnished to the  
17 commission at its request.

18       10.8 Existing State Systems. Whenever the commis-  
19 sion finds it necessary or desirable to exercise the powers  
20 conferred by this article any diversion or withdrawal permits  
21 authorized or issued under the laws of any of the signatory  
22 states shall be superseded to the extent of any conflict with  
23 the control and regulation exercised by the commission.



## ARTICLE 11

## INTERGOVERNMENTAL RELATIONS

Section 11.1 Federal Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern federal projects affecting the water resources of the basin, subject in each case to the provisions of Section 1.4 of this compact:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the commission in the comprehensive plan;

(c) Each federal agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section.

11.2 State and Local Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving

1 full effect to the commission as a regional agency of the signa-  
2 tory parties, the following rules shall govern projects of the  
3 signatory states, their political subdivisions and public cor-  
4 porations affecting water resources of the basin:

5 (a) The planning of all projects related to powers  
6 delegated to the commission by this compact shall be un-  
7 dertaken in consultation with the commission;

8 (b) No expenditure or commitment shall be made for  
9 or on account of the construction, acquisition or operation  
10 of any project or facility unless it shall have first been in-  
11 cluded by the commission in the comprehensive plan;

12 (c) Each state and local agency otherwise authorized  
13 by law to plan, design, construct, operate or maintain any  
14 project or facility in or for the basin shall continue to have,  
15 exercise and discharge such authority, except as specifically  
16 provided by this section.

17 11.3 Reserved Taxing Powers of States. Each of the  
18 signatory parties reserves the right to levy, assess and collect  
19 fees, charges and taxes on or measured by the withdrawal  
20 or diversion of waters of the basin for use within the juris-  
21 dictions of the respective signatory parties.

22 11.4 Project Costs and Evaluation Standards. The  
23 commission shall establish uniform standards and procedures  
24 for the evaluation, determination of benefits, and cost alloca-  
25 tions of projects affecting the basin, and for the determination

1 of project priorities, pursuant to the requirements of the  
2 comprehensive plan and its water resources program. The  
3 commission shall develop equitable cost sharing and reim-  
4 bursement formulas for the signatory parties including:

5 (a) Uniform and consistent procedures for the alloca-  
6 tion of project costs among purposes included in multiple-  
7 purpose programs;

8 (b) Contracts and arrangements for sharing financial  
9 responsibility among and with signatory parties, public  
10 bodies, groups and private enterprise, and for the super-  
11 vision of their performance;

12 (c) Establishment and supervision of a system of ac-  
13 counts for reimbursable purposes and directing the payments  
14 and charges to be made from such accounts;

15 (d) Determining the basis and apportioning amounts  
16 (i) of reimbursable revenues to be paid signatory parties  
17 or their political subdivisions, and (ii) of payments in lieu  
18 of taxes to any of them.

19 11.5 Cooperative Services. The commission shall fur-  
20 nish technical services, advice and consultation to authorized  
21 agencies of the signatory parties with respect to the water  
22 resources of the basin, and each of the signatory parties  
23 pledges itself to provide technical and administrative serv-  
24 ices to the commission upon request, within the limits of  
25 available appropriations and to cooperate generally with the



1 commission for the purposes of this compact, and the cost of  
2 such services may be reimbursable whenever the parties  
3 deem appropriate.

## 4 ARTICLE 12

### 5 CAPITAL FINANCING

6 Section 12.1 Borrowing Power. The commission may  
7 borrow money for any of the purposes of this compact, and  
8 may issue its negotiable bonds and other evidences of in-  
9 debtedness in respect thereto. All such bonds and evidences  
10 of indebtedness shall be payable solely out of the properties  
11 and revenues of the commission without recourse to taxation.  
12 The bonds and other obligations of the commission, except as  
13 may be otherwise provided in the indenture under which  
14 they were issued, shall be direct and general obligations of  
15 the commission and the full faith and credit of the commis-  
16 sion are hereby pledged for the prompt payment of the debt  
17 service thereon and for the fulfillment of all other under-  
18 takings of the commission assumed by it to or for the benefit  
19 of the holders thereof.

20 12.2 Funds and Expenses. The purposes of this com-  
21 pact shall include without limitation thereto all costs of any  
22 project or facility or any part thereof, including interest  
23 during a period of construction and a reasonable time there-  
24 after and any incidental expenses (legal, engineering, fiscal,  
25 financial consultant and other expenses) connected with issu-

1 ing and disposing of the bonds; all amounts required for the  
2 creation of an operating fund, construction fund, reserve  
3 fund, sinking fund, or other special fund; all other expenses  
4 connected with the planning, design, acquisition, construc-  
5 tion, completion, improvement or reconstruction of any fa-  
6 cility or any part thereof; and reimbursement of advances by  
7 the commission or by others for such purposes and for work-  
8 ing capital.

9 12.3 Credit Excluded; Officers, State and Municipal.

10 The commission shall have no power to pledge the credit of  
11 any signatory party, or of any county or municipality, or to  
12 impose any obligation for payment of the bonds upon any  
13 signatory party or any county or municipality. Neither the  
14 commissioners nor any person executing the bonds shall be  
15 liable personally on the bonds of the commission or be subject  
16 to any personal liability or accountability by reason of the  
17 issuance thereof.

18 12.4 Funding and Refunding. Whenever the commis-  
19 sion deems it expedient, it may fund and refund its bonds  
20 and other obligations whether or not such bonds and obliga-  
21 tions have matured. It may provide for the issuance, sale or  
22 exchange of refunding bonds for the purpose of redeeming  
23 or retiring any bonds (including the payment of any  
24 premium, duplicate interest or cash adjustment required in  
25 connection therewith) issued by the commission or issued

1 by any other issuing body, the proceeds of the sale of which  
2 have been applied to any facility acquired by the commission  
3 or which are payable out of the revenues of any facility ac-  
4 quired by the commission. Bonds may be issued partly to  
5 refund bonds and other obligations then outstanding, and  
6 partly for any other purpose of the commission. All pro-  
7 visions of this compact applicable to the issuance of bonds  
8 are applicable to refunding bonds and to the issuance, sale  
9 or exchange thereof.

10       12.5 Bonds; Authorization Generally. Bonds and  
11 other indebtedness of the commission shall be authorized by  
12 resolution of the commission. The validity of the authoriza-  
13 tion and issuance of any bonds by the commission shall not  
14 be dependent upon nor affected in any way by: (i) the  
15 disposition of bond proceeds by the commission or by con-  
16 tract, commitment or action taken with respect to such  
17 proceeds; or (ii) the failure to complete any part of the  
18 project for which bonds are authorized to be issued. The  
19 commission may issue bonds in one or more series and may  
20 provide for one or more consolidated bond issues, in such  
21 principal amounts and with such terms and provisions as the  
22 commission may deem necessary. The bonds may be  
23 secured by a pledge of all or any part of the property,  
24 revenues and franchises under its control. Bonds may be  
25 issued by the commission in such amount, with such maturi-



1 ties and in such denominations and form or forms, whether  
2 coupon or registered, as to both principal and interest, as  
3 may be determined by the commission. The commission  
4 may provide for redemption of bonds prior to maturity on  
5 such notice and at such time or times and with such redemp-  
6 tion provisions, including premiums, as the commission may  
7 determine.

#### 8 12.6 Bonds; Resolutions and Indentures Generally.

9 The commission may determine and enter into indentures  
10 providing for the principal amount, date or dates, maturities,  
11 interest rate, denominations, form, registration, transfer,  
12 interchange and other provisions of the bonds and coupons  
13 and the terms and conditions upon which the same shall be  
14 executed, issued, secured, sold, paid, redeemed, funded and  
15 refunded. The resolution of the commission authorizing any  
16 bond or any indenture so authorized under which the bonds  
17 are issued may include all such covenants and other pro-  
18 visions other than any restriction on the regulatory powers  
19 vested in the commission by this compact as the commission  
20 may deem necessary or desirable for the issue, payment,  
21 security, protection or marketing of the bonds, including  
22 without limitation covenants and other provisions as to the  
23 rates or amounts of fees, rents and other charges to be  
24 charged or made for use of the facilities; the use, pledge,

1 custody, securing, application and disposition of such reve-  
2 nues, of the proceeds of the bonds, and of any other moneys  
3 of the commission; the operation, maintenance, repair and  
4 reconstruction of the facilities and the amounts which may  
5 be expended therefor; the sale, lease or other disposition of  
6 the facilities; the insuring of the facilities and of the revenues  
7 derived therefrom; the construction or other acquisition of  
8 other facilities; the issuance of additional bonds or other in-  
9 debtedness; the rights of the bondholders and of any trustee  
10 for the bondholders upon default by the commission or other-  
11 wise; and the modification of the provisions of the indenture  
12 and of the bonds. Reference on the face of the bonds to such  
13 resolution or indenture by its date of adoption or the apparent  
14 date on the face thereof is sufficient to incorporate all of the  
15 provisions thereof and of this compact into the body of the  
16 bonds and their appurtenant coupons. Each taker and sub-  
17 sequent holder of the bonds or coupons, whether the coupons  
18 are attached to or detached from the bonds, has recourse to  
19 all of the provisions of the indenture and of this compact and  
20 is bound thereby.

21       12.7 Maximum Maturity. No bond or its terms shall  
22 mature in more than fifty years from its own date and in  
23 the event any authorized issue is divided into two or more  
24 series or divisions, the maximum maturity date herein au-  
25 thorized shall be calculated from the date on the face of

1 each bond separately, irrespective of the fact that different  
2 dates may be prescribed for the bonds of each separate series  
3 or division of any authorized issue.

4 12.8 Tax Exemption. All bonds issued by the com-  
5 mission under the provisions of this compact and the interest  
6 thereof shall at all times be free and exempt from all taxa-  
7 tion by or under authority of any of the signatory parties,  
8 except for transfer, inheritance and estate taxes.

9 12.9 Interest. Bonds shall bear interest at a rate of  
10 not to exceed six percent per annum, payable annually or  
11 semi-annually.

12 12.10 Place of Payment. The commission may pro-  
13 vide for the payment of the principal and interest of bonds  
14 at any place or places within or without the signatory states,  
15 and in any specified lawful coin or currency of the United  
16 States of America.

17 12.11 Execution. The commission may provide for  
18 the execution and authentication of bonds by the manual,  
19 lithographed or printed facsimile signature of officers of the  
20 commission, and by additional authentication by a trustee  
21 or fiscal agent appointed by the commission. If any of the  
22 officers whose signatures or counter signatures appear upon  
23 the bonds or coupons cease to be officers before the delivery  
24 of the bonds or coupons, their signatures or counter signa-  
25 tures are nevertheless valid and of the same force and effect



1 as if the officers had remained in office until the delivery of  
2 the bonds and coupons.

3 12.12 Holding Own Bonds. The Commission shall  
4 have power out of any funds available therefor to purchase  
5 its bonds and may hold, cancel or resell such bonds.

6 12.13 Sale. The commission may fix terms and condi-  
7 tions for the sale or other disposition of any authorized issue  
8 of bonds. The commission may sell bonds at less than their  
9 par or face value but no issue of bonds may be sold at an  
10 aggregate price below the par or face value thereof if such  
11 sale would result in a net interest cost to the commission  
12 calculated upon the entire issue so sold of more than six per-  
13 cent per annum payable semi-annually, according to standard  
14 tables of bond values. All bonds issued and sold for cash pur-  
15 suant to this act shall be sold on sealed proposals to the high-  
16 est bidder. Prior to such sale, the commission shall advertise  
17 for bids by publication of a notice of sale not less than ten  
18 days prior to the date of sale, at least once in a newspaper of  
19 general circulation printed and published in New York City  
20 carrying municipal bond notices and devoted primarily to  
21 financial news. The commission may reject any and all  
22 bids submitted and may thereafter sell the bonds so ad-  
23 vertised for sale at private sale to any financially responsible  
24 bidder under such terms and conditions as it deems most  
25 advantageous to the public interest, but the bonds shall not

1 be sold at a net interest cost calculated upon the entire issue  
2 so advertised, greater than the lowest bid which was rejected.  
3 In the event the commission desires to issue its bonds in ex-  
4 change for an existing facility or portion thereof, or in ex-  
5 change for bonds secured by the revenues of an existing fa-  
6 cility, it may exchange such bonds for the existing facility  
7 or portion thereof or for the bonds so secured, plus an addi-  
8 tional amount of cash, without advertising such bonds for  
9 sale.

10 12.14 Negotiability. All bonds issued under the pro-  
11 visions of this compact are negotiable instruments, except  
12 when registered in the name of a registered owner.

13 12.15 Legal Investments. Bonds of the commission  
14 shall be legal investments for savings banks, fiduciaries and  
15 public funds in each of the signatory states.

16 12.16 Validation Proceedings. Prior to the issuance  
17 of any bonds, the commission may institute a special pro-  
18 ceeding to determine the legality of proceedings to issue the  
19 bonds and their validity under the laws of any of the signa-  
20 tory parties. Such proceeding shall be instituted and pros-  
21 ecuted in rem and the judgment rendered therein shall be  
22 conclusive against all persons whomsoever and against each  
23 of the signatory parties.

24 12.17 Recording. No indenture need be recorded or  
25 filed in any public office, other than the office of the com-

1 mission. The pledge of revenues provided in any indenture  
2 shall take effect forthwith as provided therein and irrespec-  
3 tive of the date of receipts of such revenues by the commission  
4 or the indenture trustee. Such pledge shall be effective as  
5 provided in the indenture without physical delivery of the  
6 revenues to the commission or to the indenture trustee.

7       12.18 Pledged Revenues. Bond redemption and inter-  
8 est payments shall, to the extent provided in the resolution or  
9 indenture, constitute a first, direct and exclusive charge and  
10 lien on all such rates, rents, tolls, fees and charges and other  
11 revenues and interest thereon received from the use and  
12 operation of the facility, and on any sinking or other funds  
13 created therefrom. All such rates, rents, tolls, fees, charges  
14 and other revenues, together with interest thereon, shall  
15 constitute a trust fund for the security and payment of such  
16 bonds and except as and to the extent provided in the inden-  
17 ture with respect to the payment therefrom of expenses for  
18 other purposes including administration, operation, mainte-  
19 nance, improvements or extensions of the facilities or other  
20 purposes shall not be used or pledged for any other purpose  
21 so long as such bonds, or any of them, are outstanding and  
22 unpaid.

23       12.19 Remedies. The holder of any bond may for  
24 the equal benefit and protection of all holders of bonds  
25 similarly situated: (a) by mandamus or other appropriate



1 proceedings require and compel the performance of any  
2 of the duties imposed upon the commission or assumed by  
3 it, its officers, agents or employees under the provisions  
4 of any indenture, in connection with the acquisition, con-  
5 struction, operation, maintenance, repair, reconstruction or  
6 insurance of the facilities, or in connection with the collec-  
7 tion, deposit, investment, application and disbursement of  
8 the rates, rents, tolls, fees, charges and other revenues  
9 derived from the operation and use of the facilities, or in  
10 connection with the deposit, investment and disbursement  
11 of the proceeds received from the sale of bonds; or (b) by  
12 action or suit in a court of competent jurisdiction of any  
13 signatory party require the commission to account as if it  
14 were the trustee of an express trust, or enjoin any acts or  
15 things which may be unlawful or in violation of the rights  
16 of the holders of the bonds. The enumeration of such rights  
17 and remedies does not, however, exclude the exercise or  
18 prosecution of any other rights or remedies available to  
19 the holders of bonds.

20 12.20 Capital Financing by Signatory Parties; Guar-  
21 antees.

22 (a) The signatory parties will provide such capital  
23 funds required for projects of the commission as may be  
24 authorized by their respective statutes in accordance with a  
25 cost sharing plan prepared pursuant to Article 11 of this

1 compact; but nothing in this section shall be deemed to im-  
2 pose any mandatory obligation on any of the signatory  
3 parties other than such obligations as may be assumed by  
4 a signatory party in connection with a specific project or  
5 facility.

6 (b) Bonds of the commission, notwithstanding any  
7 other provision of this compact, may be executed and de-  
8 livered to any duly authorized agency of any of the signa-  
9 tory parties without public offering and may be sold and re-  
10 sold with or without the guarantee of such signatory party,  
11 subject to and in accordance with the constitutions of the  
12 respective signatory parties.

13 (c) The commission may receive and accept, and the  
14 signatory parties may make, loans, grants, appropriations,  
15 advances and payments of reimbursable or non-reimbursable  
16 funds or property in any form for the capital or operating  
17 purposes of the commission.

## 18 ARTICLE 13

### 19 PLAN, PROGRAM AND BUDGETS

20 Section 13.1 Comprehensive Plan. The commission  
21 shall develop and adopt, and may from time to time review  
22 and revise, a comprehensive plan for the immediate and  
23 long range development and use of the water resources of  
24 the basin. The plan shall include all public and private

1 projects and facilities which are required, in the judgment  
2 of the commission, for the optimum planning, development,  
3 conservation, utilization, management and control of the  
4 water resources of the basin to meet present and future  
5 needs; provided that the plan shall include any projects  
6 required to conform with any present or future decree or  
7 judgment of any court of competent jurisdiction. The com-  
8 mission may adopt a comprehensive plan or any revision  
9 thereof in such part or parts as it may deem appropriate,  
10 provided that before the adoption of the plan or any part or  
11 revision thereof the commission shall consult with water  
12 users and interested public bodies and public utilities and  
13 shall consider and give due regard to the findings and recom-  
14 mendations of the various agencies of the signatory parties  
15 and their political subdivisions. The commission shall con-  
16 duct public hearings with respect to the comprehensive plan  
17 prior to the adoption of the plan or any part or revision  
18 thereof.

19 13.2 Water Resources Program. The commission  
20 shall annually adopt a water resources program, based upon  
21 the comprehensive plan, consisting of the projects and facili-  
22 ties which the commission proposes to be undertaken by the  
23 commission and by other authorized governmental and pri-  
24 vate agencies, organizations and persons during the ensuing



1 six years or such other reasonably foreseeable period as the  
2 commission may determine. The water resources program  
3 shall include a systematic presentation of:

4 1) the quantity and quality of water resources  
5 needs for such period;

6 2) the existing and proposed projects and facilities  
7 required to satisfy such needs, including all public and  
8 private projects to be anticipated;

9 3) a separate statement of the projects proposed to  
10 be undertaken by the commission during such period.

### 11 13.3 Annual Current Expense and Capital Budgets.

12 (a) The commission shall annually adopt a capital  
13 budget including all capital projects it proposes to undertake  
14 or continue during the budget period containing a statement  
15 of the estimated cost of each project and the method of  
16 financing thereof.

17 (b) The commission shall annually adopt a current  
18 expense budget for each fiscal year. Such budget shall in-  
19 clude the commission's estimated expenses for administra-  
20 tion, operation, maintenance and repairs, including a sepa-  
21 rate statement thereof for each project, together with its cost  
22 allocation. The total of such expenses shall be balanced by  
23 the commission's estimated revenues from all sources, includ-  
24 ing the cost allocations undertaken by any of the signatory

1 parties in connection with any project. Following the adop-  
2 tion of the annual current expense budget by the commission,  
3 the executive director of the commission shall:

4 1) certify to the respective signatory parties the  
5 amounts due in accordance with existing cost sharing  
6 established for each project; and

7 2) transmit certified copies of such budget to the  
8 principal budget officer of the respective signatory  
9 parties at such time and in such manner as may be re-  
10 quired under their respective budgetary procedures.  
11 The amount required to balance the current expense  
12 budget in addition to the aggregate amount of item (1)  
13 above and all other revenues available to the commission  
14 shall be apportioned equitably among the signatory  
15 parties by unanimous vote of the commission, and the  
16 amount of such apportionment to each signatory party  
17 shall be certified together with the budget.

18 (c) The respective signatory parties covenant and  
19 agree to include the amounts so apportioned for the support  
20 of the current expense budget in their respective budgets  
21 next to be adopted, subject to such review and approval as  
22 may be required by their respective budgetary processes.  
23 Such amounts shall be due and payable to the commission  
24 in quarterly installments during its fiscal year, provided that

1 the commission may draw upon its working capital to finance  
2 its current expense budget pending remittances by the signa-  
3 tory parties.

## 4 ARTICLE 14

### 5 GENERAL PROVISIONS

6 Section 14.1 Auxiliary Powers of Commission; Func-  
7 tions of Commissioners.

8 (a) The commission, for the purposes of this compact,  
9 may:

10 1) Adopt and use a corporate seal, enter into con-  
11 tracts, sue and be sued in all courts of competent juris-  
12 diction;

13 2) Receive and accept such payments, appropria-  
14 tions, grants, gifts, loans, advances and other funds,  
15 properties and services as may be transferred or made  
16 available to it by any signatory party or by any other  
17 public or private corporation or individual, and enter into  
18 agreements to make reimbursement for all or part  
19 thereof;

20 3) Provide for, acquire and adopt detailed en-  
21 gineering, administrative, financial and operating plans  
22 and specifications to effectuate, maintain or develop any  
23 facility or project;

24 4) Control and regulate the use of facilities owned  
25 or operated by the commission;



1           5) Acquire, own, operate, maintain, control, sell  
2           and convey real and personal property and any interest  
3           therein by contract, purchase, lease, license, mortgage  
4           or otherwise as it may deem necessary for any project  
5           or facility, including any and all appurtenances thereto  
6           necessary, useful or convenient for such ownership,  
7           operation, control, maintenance or conveyance;

8           6) Have and exercise all corporate powers essential  
9           to the declared objects and purposes of the commission.

10          (b) The commissioners, subject to the provisions of this  
11 compact, shall:

12           1) Serve as the governing body of the commission,  
13           and exercise and discharge its powers and duties except  
14           as otherwise provided by or pursuant to this compact;

15           2) Determine the character of and the necessity for  
16           its obligations and expenditures and the manner in which  
17           they shall be incurred, allowed, and paid subject to any  
18           provisions of law specifically applicable to agencies or  
19           instrumentalities created by compact;

20           3) Provide for the internal organization and admin-  
21           istration of the commission;

22           4) Appoint the principal officers of the commission  
23           and delegate to and allocate among them administrative  
24           functions, powers and duties;

25           5) Create and abolish offices, employments and

1 position as it deems necessary for the purposes of the  
2 commission, and subject to the provisions of this article,  
3 fix and provide for the qualification, appointment, re-  
4 moval, term, tenure, compensation, pension and retire-  
5 ment rights of its officers and employees;

6 6) Let and execute contracts to carry out the  
7 powers of the commission.

8 14.2 Regulations; Enforcement. The commission may:

9 (a) Make and enforce reasonable rules and regulations  
10 for the effectuation, application and enforcement of this com-  
11 pact; and it may adopt and enforce practices and schedules  
12 for or in connection with the use, maintenance and adminis-  
13 tration of projects and facilities it may own or operate and  
14 any product or service rendered thereby; provided that any  
15 rule or regulation, other than one which deals solely with  
16 the internal management of the commission, shall be adopted  
17 only after public hearing and shall not be effective unless and  
18 until filed in accordance with the law of the respective  
19 signatory parties applicable to administrative rules and regu-  
20 lations generally; and

21 (b) Designate any officer, agent or employee of the  
22 commission to be an investigator or watchman and such  
23 person shall be vested with the powers of a peace officer of  
24 the state in which he is duly assigned to perform his duties.

25 14.3 Tax Exemption. The commission, its property,

1 functions, and activities shall be exempt from taxation by or  
2 under the authority of any of the signatory parties or any  
3 political subdivision thereof; provided that in lieu of prop-  
4 erty taxes the commission shall, as to specific projects, make  
5 payments to local taxing districts in annual amounts which  
6 shall equal the taxes lawfully assessed upon property for the  
7 tax year next prior to its acquisition by the commission for  
8 a period of ten years. The nature and amount of such pay-  
9 ments shall be reviewed by the commission at the end of ten  
10 years, and from time to time thereafter, upon reasonable  
11 notice and opportunity to be heard to the affected taxing  
12 district, and the payments may be thereupon terminated or  
13 continued in such reasonable amount as may be necessary  
14 or desirable to take into account hardships incurred and bene-  
15 fits received by the taxing jurisdiction which are attributable  
16 to the project.

17 14.4 Meetings; Public Hearing; Records, Minutes.

18 (a) All meetings of the commission shall be open to the  
19 public.

20 (b) The commission shall conduct at least one public  
21 hearing prior to the adoption of the comprehensive plan,  
22 water resources program, annual capital and current ex-  
23 pense budgets, the letting of any contract for the sale or  
24 other disposition by the commission of hydroelectric energy  
25 or water resources to any person, corporation or entity, and



1 in all other cases wherein this compact requires a public  
2 hearing. Such hearing shall be held upon at least ten days  
3 public notice given by posting at the offices of the com-  
4 mission. The commission shall also provide forthwith for  
5 distribution of such notice to the press and by the mailing  
6 of a copy thereof to any person who shall request such  
7 notices.

8 (c) The minutes of the commission shall be a public  
9 record open to inspection at its offices during regular business  
10 hours.

11 14.5 Officers Generally.

12 (a) The officers of the commission shall consist of an  
13 executive director and such additional officers, deputies and  
14 assistants as the commission may determine. The executive  
15 director shall be appointed and may be removed by the  
16 affirmative vote of a majority of the full membership of the  
17 commission. All other officers and employees shall be ap-  
18 pointed by the executive director under such rules of pro-  
19 cedure as the commission may determine.

20 (b) In the appointment and promotion of officers and  
21 employees for the commission, no political, racial, religious  
22 or residence test or qualification shall be permitted or given  
23 consideration, but all such appointments and promotions  
24 shall be solely on the basis of merit and fitness. Any officer

1 or employee of the commission who is found by the commis-  
2 sion to be guilty of a violation of this section shall be removed  
3 from office by the commission.

4 14.6 Oath of Office. An oath of office in such form as  
5 the commission shall prescribe shall be taken, subscribed  
6 and filed with the commission by the executive director and  
7 by each officer appointed by him not later than fifteen days  
8 after the appointment.

9 14.7 Bond. Each officer shall give such bond and in  
10 such form and amount as the commission may require for  
11 which the commission may pay the premium.

12 14.8 Prohibited Activities.

13 (a) No commissioner, officer or employee shall:

14 1) be financially interested, either directly or in-  
15 directly, in any contract, sale, purchase, lease or trans-  
16 fer of real or personal property to which the commission  
17 is a party;

18 2) solicit or accept money or any other thing of  
19 value in addition to the compensation or expenses paid  
20 him by the commission for services performed within the  
21 scope of his official duties;

22 3) offer money or any thing of value for or in con-  
23 sideration of obtaining an appointment, promotion or  
24 privilege in his employment with the commission.

1       (b) Any officer or employee who shall willfully violate  
2 any of the provisions of this section shall forfeit his office or  
3 employment.

4       (c) Any contract or agreement knowingly made in  
5 contravention of this section is void.

6       (d) Officers and employees of the commission shall be  
7 subject in addition to the provisions of this section to such  
8 criminal and civil sanctions for misconduct in office as may  
9 be imposed by federal law and the law of the signatory date  
10 in which such misconduct occurs.

11       14.9 Purchasing. Contracts for the construction, re-  
12 construction or improvement of any facility when the ex-  
13 penditure required exceeds ten thousand dollars and contracts  
14 for the purchase of services, supplies, equipment and ma-  
15 terials when the expenditure required exceeds two thousand  
16 five hundred dollars shall be advertised and let upon sealed  
17 bids to the lowest responsible bidder. Notice requesting  
18 such bids shall be published in a manner reasonably likely to  
19 attract prospective bidders, which publication shall be made  
20 at least ten days before bids are received and in at least two  
21 newspapers of general circulation in the basin. The com-  
22 mission may reject any and all bids and readvertise in its  
23 discretion. If after rejecting bids the commission determines  
24 and resolves that in its opinion the supplies, equipment and  
25 materials may be purchased at a lower price in the open



1 market, the commission may give each responsible bidder  
2 an opportunity to negotiate a price and may proceed to pur-  
3 chase the supplies, equipment and materials in the open mar-  
4 ket at a negotiated price which is lower than the lowest re-  
5 jected bid of a responsible bidder, without further observance  
6 of the provisions requiring bids or notice. The commission  
7 shall adopt rules and regulations to provide for purchasing  
8 from the lowest responsible bidder when sealed bids, notice  
9 and publication are not required by this section. The com-  
10 mission may suspend and waive the provisions of this section  
11 requiring competitive bids whenever:

12 1) the purchase is to be made from or the contract  
13 to be made with the federal or any state government or  
14 any agency or political subdivision thereof or pursuant  
15 to any open end bulk purchase contract of any of them;

16 2) the public exigency requires the immediate de-  
17 livery of the articles or performance of the service;

18 3) only one source of supply is available;

19 4) the equipment to be purchased is of a technical  
20 nature and the procurement thereof without advertising  
21 is necessary in order to assure standardization of equip-  
22 ment and interchangeability of parts in the public in-  
23 terest; or

24 5) services are to be provided of a specialized or  
25 professional nature.

1        14.10 Insurance. The commission may self-insure or  
2 purchase insurance and pay the premiums therefor against  
3 loss or damage to any of its properties; against liability for  
4 injury to persons or property; and against loss of revenue  
5 from any cause whatsoever. Such insurance coverage shall  
6 be in such form and amount as the commission may deter-  
7 mine, subject to the requirements of any agreement arising  
8 out of the issuance of bonds by the commission.

9        14.11 Annual Independent Audit.

10        (a) As soon as practical after the closing of the fiscal  
11 year, an audit shall be made of the financial accounts of the  
12 commission. The audit shall be made by qualified certified  
13 public accountants selected by the commission, who have no  
14 personal interest direct or indirect in the financial affairs of  
15 the commission or any of its officers or employees. The  
16 report of audit shall be prepared in accordance with accepted  
17 accounting practices and shall be filed with the chairman  
18 and such other officers as the commission shall direct. Copies  
19 of the report shall be distributed to each commissioner and  
20 shall be made available for public distribution.

21        (b) Each signatory party by its duly authorized officers  
22 shall be entitled to examine and audit at any time all of the  
23 books, documents, records, files and accounts and all other  
24 papers, things or property of the commission. The repre-  
25 sentatives of the signatory parties shall have access to all

1 books, documents, records, accounts, reports, files and all  
2 other papers, things or property belonging to or in use by  
3 the commission and necessary to facilitate the audit and they  
4 shall be afforded full facilities for verifying transactions with  
5 the balances or securities held by depositaries, fiscal agents  
6 and custodians.

7 (c) The financial transactions of the commission shall  
8 be subject to audit by the general accounting office in accord-  
9 ance with the principles and procedures applicable to com-  
10 mercial corporate transactions and under such rules and  
11 regulations as may be prescribed by the comptroller general  
12 of the United States. The audit shall be conducted at the  
13 place or places where the accounts of the commission are  
14 kept.

15 (d) Any officer or employee who shall refuse to give  
16 all required assistance and information to the accountants  
17 selected by the commission or to the authorized officers of  
18 any signatory party or who shall refuse to submit to them  
19 for examination such books, documents, records, files, ac-  
20 counts, papers, things or property as may be requested shall  
21 forfeit his office.

22 14.12 Reports. The commission shall make and pub-  
23 lish an annual report to the legislative bodies of the signatory  
24 parties and to the public reporting on its programs, opera-  
25 tions and finances. It may also prepare, publish and dis-



1   tribute such other public reports and informational materials  
2   as it may deem necessary or desirable.

3       14.13   Grants, Loans or Payments by States or Po-  
4   litical Subdivisions.

5       (a)   Any or all of the signatory parties or any political  
6   subdivision thereof may:

7           1)   Appropriate to the commission such funds as  
8       may be necessary to pay preliminary expenses such as  
9       the expenses incurred in the making of borings, and  
10      other studies of subsurface conditions, in the preparation  
11      of contracts for the sale of water and in the preparation  
12      of detailed plans and estimates required for the financing  
13      of a project;

14          2)   Advance to the commission, either as grants or  
15      loans, such funds as may be necessary or convenient to  
16      finance the operation and management of or construction  
17      by the commission of any facility or project;

18          3)   Make payments to the commission for benefits  
19      received or to be received from the operation of any of  
20      the projects or facilities of the commission.

21       (b)   Any funds which may be loaned to the commission  
22   either by a signatory party or a political subdivision thereof  
23   shall be repaid by the commission through the issuance of  
24   bonds or out of other income of the commission, such repay-  
25   ment to be made within such period and upon such terms as

1 may be agreed upon between the commission and the signa-  
2 tory party or political subdivision making the loan.

3 14.14 Condemnation Proceedings.

4 (a) The commission shall have the power to acquire by  
5 condemnation the fee or any lesser interest in lands, lands  
6 lying under water, development rights in land, riparian  
7 rights, water rights, waters and other real or personal prop-  
8 erty within the basin for any project or facility authorized  
9 pursuant to this compact. This grant of power of eminent  
10 domain includes but is not limited to the power to condemn  
11 for the purposes of this compact any property already devoted  
12 to a public use, by whomsoever owned or held, other than  
13 property of a signatory party and any property held, con-  
14 structed, operated or maintained in connection with a diver-  
15 sion authorized by a United States Supreme Court decree.  
16 Any condemnation of any property or franchises owned or  
17 used by a municipal or privately owned public utility, unless  
18 the affected public utility facility is to be relocated or re-  
19 placed, shall be subject to the authority of such state board,  
20 commission or other body as may have regulatory jurisdic-  
21 tion over such public utility.

22 (b) Such power of condemnation shall be exercised in  
23 accordance with the provisions of any federal law applicable  
24 to the commission; provided that if there is no such appli-  
25 cable federal law, condemnation proceedings shall be in

1 accordance with the provisions of such general state con-  
2 demnation law as may be in force in the signatory state in  
3 which the property is located.

4 (c) Any award or compensation for the taking of prop-  
5 erty pursuant to this article shall be paid by the commission,  
6 and none of the signatory parties nor any other agency,  
7 instrumentality or political subdivision thereof shall be liable  
8 for such award or compensation.

9 14.15 Conveyance of Lands and Relocation of Public  
10 Facilities.

11 (a) The respective officers, agencies, departments, com-  
12 missions or bodies having jurisdiction and control over real  
13 and personal property owned by the signatory parties are  
14 authorized and empowered to transfer and convey in accord-  
15 ance with the laws of the respective parties to the commis-  
16 sion any such property as may be necessary or convenient  
17 to the effectuation of the authorized purposes of the  
18 commission.

19 (b) Each political subdivision of each of the signatory  
20 parties is authorized and empowered, notwithstanding any  
21 contrary provision of law, to grant and convey to the com-  
22 mission, upon the commission's request, any real property  
23 or any interest therein owned by such political subdivision  
24 including lands lying under water and lands already devoted



1 to public use which may be necessary or convenient to the  
2 effectuation of the authorized purposes of the commission.

3 (c) Any highway, public utility or other public facility  
4 which will be dislocated by reason of a project deemed neces-  
5 sary by the commission to effectuate the authorized purposes  
6 of this compact shall be relocated and the cost thereof shall  
7 be paid in accordance with the law of the state in which the  
8 facility is located; provided that the cost of such relocation  
9 payable by the commission shall not in any event exceed the  
10 expenditure required to serve the public convenience and  
11 necessity.

12 14.16 Rights of Way. Permission is hereby granted  
13 to the commission to locate, construct and maintain any  
14 aqueducts, lines, pipes, conduits and auxiliary facilities au-  
15 thorized to be acquired, constructed, owned, operated or  
16 maintained by the commission in, over, under or across  
17 any streets and highways now or hereafter owned, opened  
18 or dedicated to or for public use, subject to such reasonable  
19 conditions as the highway department of the signatory party  
20 may require.

21 14.17 Penal Sanction. Any person, association or  
22 corporation who violates or attempts or conspires to violate  
23 any provision of this compact or any rule, regulation or  
24 order of the commission duly made, promulgated or issued

1 pursuant to the compact in addition to any other remedy,  
2 penalty or consequence provided by law shall be punishable  
3 as may be provided by statute of any of the signatory parties  
4 within which the offense is committed; provided that in  
5 the absence of such provision any such person, association  
6 or corporation shall be liable to a penalty of not less than  
7 \$50 nor more than \$1000 for each such offense to be fixed  
8 by the court which the commission may recover in its own  
9 name in any court of competent jurisdiction, and in a sum-  
10 mary proceeding where available under the practice and  
11 procedure of such court. For the purposes of this section  
12 in the event of a continuing offense each day of such viola-  
13 tion, attempt or conspiracy shall constitute a separate  
14 offense.

15       14.18 Tort Liability. The commission shall be respon-  
16 sible for claims arising out of the negligent acts or omissions  
17 of its officers, agents and employees only to the extent and  
18 subject to the procedures prescribed by law generally with  
19 respect to officers, agents and employees of the government  
20 of the United States.

21       14.19 Effect on Riparian Rights. Nothing contained  
22 in this compact shall be construed as affecting or intending

1 to affect or in any way to interfere with the law of the re-  
2 spective signatory parties relating to riparian rights.

3 14.20 Amendments and Supplements. Amendments  
4 and supplements to this compact to implement the purposes  
5 thereof may be adopted by legislative action of any of the  
6 signatory parties concurred in by all of the others.

7 CONSTRUCTION AND SEVERABILITY

8 14.21 The provisions of this Act and of agreements  
9 thereunder shall be severable and if any phrase, clause,  
10 sentence or provision of the Delaware River Basin Compact  
11 or such agreement is declared to be unconstitutional or the  
12 applicability thereof to any signatory party, agency or per-  
13 son is held invalid, the constitutionality of the remainder of  
14 such compact or such agreement and the applicability thereof  
15 to any other signatory party, agency, person or circumstance  
16 shall not be affected thereby. It is the legislative intent that  
17 the provisions of such compact be reasonably and liberally  
18 construed.

19 14.22 Effective Date; Execution. This compact shall  
20 become binding and effective thirty days after the enactment  
21 of concurring legislation by the federal government, the  
22 states of Delaware, New Jersey and New York, and the



1 Commonwealth of Pennsylvania. The compact shall be  
 2 signed and sealed in six duplicate original copies by the  
 3 respective chief executives of the signatory parties. One  
 4 such copy shall be filed with the Secretary of State of each  
 5 of the signatory parties or in accordance with the laws of  
 6 the state in which the filing is made, and one copy shall be  
 7 filed and retained in the archives of the commission upon its  
 8 organization. The signatures shall be affixed and attested  
 9 under the following form:

10     IN WITNESS WHEREOF, and in evidence of the  
 11 adoption and enactment into law of this compact by the Con-  
 12 gress and legislatures, respectively, of the signatory parties,  
 13 the President of the United States and the respective Gov-  
 14 ernors do hereby, in accordance with authority conferred by  
 15 law, sign this compact in six duplicate original copies, as  
 16 attested by the respective secretaries of state, and have  
 17 caused the seals of the United States and of the respective  
 18 states to be hereunto affixed this           day of           ,  
 19 19   .

## 20                           PART II

### 21                           ARTICLE 15

#### 22                           REPEALER

23     15.1 All Acts and parts of Acts inconsistent with any  
 24 provision of this Act are hereby amended for the purposes

1 of this Act to the extent necessary to carry out the provisions  
 2 of this Act.

### 3 EFFECTUATION BY THE PRESIDENT

4 15.2 The President is authorized to take such action  
 5 as may be necessary and proper, in his discretion, to effectu-  
 6 ate the Delaware River Basin Compact and the initial organ-  
 7 ization and operation of the commission thereunder.

### 8 ~~EFFECTIVE DATE~~

9 15.3 This Act shall take effect immediately.

## 10 PART II

### 11 ARTICLE 15

#### 12 RESERVATIONS

13 15.1 In the exercise of the powers reserved to the Con-  
 14 gress, pursuant to Section 1.4 of the Compact, the consent  
 15 to and participation in the Compact by the United States  
 16 is subject to the following conditions and reservations:

17 (a) Notwithstanding any provision of the Delaware  
 18 River Basin Compact the Delaware River Basin Commis-  
 19 sion shall not undertake any project (as defined in such  
 20 compact), other than a project for which State supplied funds  
 21 only will be used, beyond the planning stage until—

22 (1) such Commission has submitted to the Congress  
 23 such complete plans and estimates for such project as

1        *may be necessary to make an engineering evaluation of*  
2        *such project, including—*

3                *(A) where the project will serve more than one*  
4                *purpose, an allocation of costs among the purposes*  
5                *served and an estimate of the ratio of benefits to*  
6                *costs for each such purpose,*

7                *(B) an apportionment of costs among the*  
8                *beneficiaries of the project, including the portion of*  
9                *the costs to be borne by the Federal Government and*  
10               *by State and local governments, and*

11               *(C) a proposal for financing the project, in-*  
12               *cluding the terms of any proposed bonds or other*  
13               *evidences of indebtedness to be used for such pur-*  
14               *pose; and*

15               *(2) such project has been authorized by Act of*  
16               *Congress.*

17        *(b) No provision of Section 3.7 of the Compact shall*  
18        *be deemed to authorize the Commission to impose any charge*  
19        *for water withdrawals or diversions from the Basin if such*  
20        *withdrawals or diversions could lawfully have been made*  
21        *without charge on the effective date of the Compact; or to*  
22        *impose any charges with respect to commercial navigation*  
23        *within the Basin, jurisdiction over which is reserved to the*  
24        *Federal Government: Provided, That this paragraph shall*



1 *be applicable to the extent not inconsistent with Section 1.4*  
2 *of this Compact.*

3 *(c) Nothing contained in the Compact shall be deemed to*  
4 *restrict the executive powers of the President in the event*  
5 *of a national emergency.*

6 *(d) Notwithstanding the provisions of Article 2, section*  
7 *2.2 of the Compact, the member of the commission appointed*  
8 *by the President of the United States and his alternate*  
9 *shall serve at the pleasure of the President.*

10 *(e) Nothing contained in the Compact shall be con-*  
11 *strued as impairing or in any manner affecting the applica-*  
12 *bility to all Federal funds budgeted and appropriated for*  
13 *use by the Commission, or such authority over budgetary and*  
14 *appropriation matters as the President and Congress may*  
15 *have with respect to agencies in the Executive Branch of the*  
16 *Federal Government.*

17 *(f) Except to the same extent that state bonds are or*  
18 *may continue to be free or exempt from Federal taxation*  
19 *under the internal revenue laws of the United States, nothing*  
20 *contained in the Compact shall be construed as freeing or*  
21 *exempting from internal revenue taxation in any manner*  
22 *whatsoever any bonds issued by the Commission, their trans-*  
23 *fer, or the income therefrom (including any profits made on*  
24 *the sale thereon).*

1       (g) Nothing contained in the Compact shall be con-  
2       strued to obligate the United States legally or morally to pay  
3       the principal or interest on any bonds issued by the Delaware  
4       River Basin Commission.

5       (h) Notwithstanding the provisions of section 11.5 or  
6       any other provision of the Compact, the furnishing of tech-  
7       nical services to the Commission by agencies of the executive  
8       branch of the Government of the United States is pledged  
9       only to the extent that the respective agencies shall from time  
10      to time agree thereto or to the extent that the President may  
11      from time to time direct such agencies to perform such serv-  
12      ices for the Commission. Nothing in the Compact shall be  
13      deemed to require the United States to furnish administrative  
14      services or facilities for carrying out functions of the Com-  
15      mission except to the extent that the President may direct.

16      (i) All laborers and mechanics employed by contractors  
17      or subcontractors in the construction, alteration or repair,  
18      including painting and decorating, of projects, buildings  
19      and works which are undertaken by the Commission or  
20      are financially assisted by it, shall be paid wages at rates  
21      not less than those prevailing on similar construction in the  
22      locality so determined by the Secretary of Labor in accord-  
23      ance with the Davis-Bacon Act, as amended (40 U.S.C.  
24      276a-276a-5), and every such employee shall receive com-  
25      pensation at a rate not less than one and one-half times his

1 basic rate of pay for all hours worked in any workweek  
2 in excess of eight hours in any workday or forty hours in  
3 any workweek, as the case may be. A provision stating the  
4 minimum wages thus determined and the requirement that  
5 overtime be paid as above provided shall be set out in each  
6 project advertisement for bids and in each bid proposal form  
7 and shall be made a part of the contract covering the project.  
8 The Secretary of Labor shall have, with respect to the admin-  
9 istration and enforcement of the labor standards specified in  
10 this provision, the supervisory, investigatory and other au-  
11 thority and functions set forth in Reorganization Plan Num-  
12 bered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C.  
13 133z-15), and section 2 of the Act of June 13, 1934, as  
14 amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

15 (j) Contracts for the manufacture or furnishing of ma-  
16 terials, supplies, articles and equipment with the Commission  
17 which are in excess of \$10,000 shall be subject to the provi-  
18 sions of the Walsh-Healey Public Contracts Act (41 U.S.C.  
19 35 et seq.).

20 (k) Notwithstanding any other provision of this Act,  
21 nothing contained in this Act or in the Compact shall be con-  
22 strued as superseding or limiting the functions, under any  
23 other law, of the Secretary of Health, Education, and Welfare  
24 or of any other officer or agency of the United States, relating  
25 to water pollution: Provided, That the exercise of such func-



1    *tions shall not limit the authority of the Commission to control,*  
2    *prevent, or abate water pollution.*

3        *(l) The provisions of section 8.4 of Article 8 of the*  
4    *Compact shall not be construed to apply to facilities operated*  
5    *pursuant to any other Federal law.*

6        *(m) For purposes of the Act of June 25, 1948, 62 Stat.*  
7    *982, as amended (Title 28, U.S. Code, chapter 171, and*  
8    *sections 1346(b) and 240(b)) and the Act of March 3, 1887,*  
9    *24 Stat. 505, as amended (Title 28, U.S. Code, sections*  
10   *1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412,*  
11   *2501), and the Act of June 11, 1946, 60 Stat. 237, as*  
12   *amended (Title 5, U.S. Code, sections 1001 and 1011,*  
13   *Title 50 App. U.S. Code, section 1900), the Commission*  
14   *shall not be considered a Federal agency.*

15        *(n) The officers and employees of the Commission (other*  
16   *than the United States member, alternate United States*  
17   *member, and advisors, and personnel employed by the United*  
18   *States member under direct Federal appropriation) shall*  
19   *not be deemed to be, for any purpose, officers or employees of*  
20   *the United States or to become entitled at any time by rea-*  
21   *son of employment by the Commission to any compensation*  
22   *or benefit payable or made available by the United States*  
23   *solely and directly to its officers or employees.*

24        *(o) Neither the Compact nor this Act shall be deemed*  
25   *to enlarge the authority of any Federal agency other than*

1 the Commission to participate in or to provide funds for  
2 projects or activities in the Delaware River Basin.

3 (p) The United States district courts shall have original  
4 jurisdiction of all cases or controversies arising under the  
5 Compact, and this Act and any case or controversy so arising  
6 initiated in a State Court shall be removable to the appro-  
7 priate United States district court in the manner provided  
8 by § 1446, Title 28 U.S.C. Nothing contained in the Com-  
9 pact or elsewhere in this Act shall be construed as a waiver  
10 by the United States of its immunity from suit.

11 (q) The right to alter, amend, or repeal this Act is hereby  
12 expressly reserved. The right is hereby reserved to the Con-  
13 gress or any of its standing committees to require the dis-  
14 closure and furnishing of such information and data by the  
15 Delaware River Basin Compact Commission as is deemed  
16 appropriate by the Congress or any such committee.

17 (r) The provisions of section 2.4 and 2.6 of Article 2  
18 of the Compact notwithstanding, the member and alternate  
19 member appointed by the President and advisor there referred  
20 to may be paid compensation by the United States, such  
21 compensation to be fixed by the President at the rates which  
22 he shall deem to prevail in respect to comparable officers  
23 in the executive branch.

24 (s) 1. Nothing contained in this Act or in the Com-  
25 pact shall impair or affect the constitutional authority of the

1 *United States or any of its powers, rights, functions, or*  
2 *jurisdiction under other existing or future legislation in*  
3 *and over the area or waters which are the subject of*  
4 *the Compact including projects of the Commission: Pro-*  
5 *vided, That whenever a comprehensive plan, or any part*  
6 *or revision thereof, has been adopted with the concurrence*  
7 *of the member appointed by the President, the exercise of*  
8 *any powers conferred by law on any officer, agency or*  
9 *instrumentality of the United States with regard to water*  
10 *and related land resources in the Delaware River Basin*  
11 *shall not substantially conflict with any such portion of*  
12 *such comprehensive plan and the provisions of Section 3.8*  
13 *and Article 11 of the Compact shall be applicable to the*  
14 *extent necessary to avoid such substantial conflict: Provided*  
15 *further, That whenever the President shall find and de-*  
16 *termine that the national interest so requires, he may sus-*  
17 *pend, modify or delete any provision of the comprehensive*  
18 *plan to the extent that it affects the exercise of any powers,*  
19 *rights, functions, or jurisdiction conferred by law on any*  
20 *officer, agency or instrumentality of the United States other*  
21 *than the Commission. Such action shall be taken by execu-*  
22 *tive order in which such finding and determination shall be*  
23 *set forth.*

24       2. *For the purposes of paragraph 1 hereof, concurrence*  
25 *by the member appointed by the President shall be presumed*



1 unless within 60 days after notice to him of adoption of the  
2 comprehensive plan, or any part or revision thereof, he shall  
3 file with the Commission notice of his nonconcurrence. Each  
4 concurrence of the member appointed by the President in the  
5 adoption of the comprehensive plan or any part or revision  
6 thereof may be withdrawn by notice filed with the Commission  
7 at any time between the first and sixtieth day of the sixth  
8 year after the initial adoption of the comprehensive plan  
9 and of every sixth year thereafter.

10 (t) In the event that any phrase, clause, sentence or pro-  
11 vision of Section 1.4 of Article 1 of the Compact, is de-  
12 clared to be unconstitutional under the constitution of any  
13 of the signatory parties, or the applicability thereof to any  
14 signatory party, agency or person is held invalid by a court  
15 of last resort of competent jurisdiction, the United States  
16 shall cease to be a party to the Compact, except to the extent  
17 that the President deems remaining a party necessary and  
18 proper to protect the national interest, and shall cease to be  
19 bound by the terms thereof.

20 (u) All Acts or parts of Acts inconsistent with the pro-  
21 visions of this Act are hereby amended for the purpose of this  
22 Act to the extent necessary to carry out the provisions of this  
23 Act: Provided, however, That no act of the Commission shall  
24 have the effect of repealing, modifying or amending any Fed-  
25 eral law.

## EFFECTUATION

1

2       15.2 (a) *The President is authorized to take such action*  
3   *as may be necessary and proper, in his discretion, to effectu-*  
4   *ate the Compact and the initial organization and operation*  
5   *of the Commission thereunder.*

6       (b) *Executive departments and other agencies of the*  
7   *executive branch of the Federal Government shall cooperate*  
8   *with and furnish appropriate assistance to the United States*  
9   *member. Such assistance shall include the furnishing of*  
10   *services and facilities and may include the detailing of per-*  
11   *sonnel to the United States member. Appropriations are*  
12   *hereby authorized as necessary for the carrying out of the*  
13   *functions of the United States member, including appropria-*  
14   *tions for the employment of personnel by the United States*  
15   *member.*

16       15.3 *Effective Date: This Act shall take effect im-*  
17   *mediately.*





[Report No. 985]

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## A BILL

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To create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

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By Mr. CLARK, Mr. CASE of New Jersey, Mr. BOGGS, Mr. JAVITS, Mr. KEATING, Mr. SCOTT, Mr. WILLIAMS of Delaware, and Mr. WILLIAMS of New Jersey

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FEBRUARY 9, 1961

Read twice and referred to the Committee on Public Works

SEPTEMBER 12, 1961

Reported with an amendment







Senate  
different trades that would otherwise be naturally competitive "unless each conference retains the right of independent action." pp. 18230-5  
By Sen. Kefauver, 33 to 45, which would have provided that the Commission could not approve agreements which were reasonably likely to cause the elimination or prevent the entry of a carrier into the trade, or if its probable effect would be likely to exclude any carrier from any trade. pp. 18235-47

13. RIVER BASINS. The Interior and Insular Affairs Committee reported with an additional amendment H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin Compact (S. Rept. 1032)(this bill was previously reported by the Judiciary Committee on Aug. 31). p. 18207
14. WHEAT. Sen. Mansfield inserted his letter (for himself and other Senators) to Secretary Freeman urging the "Department develop... recommendations for a comprehensive, long-range wheat program embodying the principles of the bushel program, in sufficient time to submit your recommendations to the Congress by January 1962," and the Secretary's reply stating that he had appointed a wheat and feed grain committee to study various alternative proposals for dealing with wheat and feed grains. pp. 18211-2
15. FOREIGN TRADE. Agreed to the House amendments to S. 2325, to permit the Export-Import Bank to issue guarantees and insurance where private enterprise will not issue them. This bill will now be sent to the President. p. 18254
16. MILITARY CONSTRUCTION APPROPRIATION BILL, 1962. Disagreed to a House amendment to a Senate amendment to this bill, H. R. 8302. Further conferees were appointed. pp. 18255-9
17. PERSONNEL. As reported (see Digest 157), S. 188, the 30-year retirement bill, provides that an employee may retire optionally with full annuity at age 55 with 30 years or more of service (existing law requires a reduction of 1 percent per year for each year under 60 of annuities of employees retiring optionally after reaching age 55 with 30 years or more of service).
18. D. C. APPROPRIATION BILL, 1962. Passed as reported this bill, H. R. 8072. Conferees were appointed. pp. 18260, 18265-7
19. FOREIGN AID APPROPRIATION BILL, 1962. This bill, H. R. 9033, was made the unfinished business. p. 18291
20. FOOD FOR PEACE. Sen. Neuberger discussed agricultural production in underdeveloped nations and the importance of the Food for Peace program in providing the peoples of these nations with an adequate diet. pp. 18295-6
21. EDUCATION. Sen. Humphrey reviewed and discussed the history of Federal aid to education in the U. S., including the land-grant colleges, and inserted several items on this subject. pp. 18296-306
22. LEGISLATIVE PROGRAM. Sen. Mansfield stated that the foreign aid appropriation bill will be considered Fri., and Sat. debate will begin on a measure to change the Senate Rules regarding cloture. p. 18261

#### ITEMS IN APPENDIX

23. FARM PROGRAM. Extension of remarks of Sen. Hartke inserting an article, "Freedom to Farm," reviewing Ezra Taft Benson's book. p. A7242



24. CONSERVATION. Extension of remarks of Sen. Wiley commending and inserting an article by Interior Secretary Udall, "Plea for a Green Legacy." pp. A7242-3
25. FOREIGN TRADE. Extension of remarks of Rep. Daniels inserting an address by Rep. Dent, "Imports and Our Economy--The Relationship Between Aid and Trade." pp. A7246-8
26. PESTICIDES. Extension of remarks of Rep. Dingell inserting an article, "Pesticides Are Good Friends, But Can Be Dangerous Enemies If Used By Zealots," and stating that the editorial is a "warning of clear and present danger in the overuse, or careless use, of pesticides." pp. A7260-1
27. FOOD FOR PEACE. Extension of remarks of Rep. Multer inserting an article published by the National Farmers Union, "Food for Peace," and stating that "its message is the most human of all: technological advances in agriculture have now--for the first time in history--made it possible to feed adequately the whole of the vast multitudes of the world." pp. A7265-6
28. MILK SANITATION. Extension of remarks of Rep. Kastenmeier inserting an article, "Dairy Farmers In State Get Boost From Freeman," which reviews the progress that has been made on national milk sanitation legislation. pp. A7267-8
29. RESEARCH; FARM TENANCY. Extension of remarks of Rep. Nygaard discussing a new program of agricultural law research being carried on by the Univ. of North Dakota, the first study being a survey of laws affecting farm tenancy in N. Dak. p. A7268

#### BILLS INTRODUCED

30. MONOPOLIES. S. 2552, by Sen Sparkman, to amend the Federal Trade Commission Act to provide for the issuance of temporary cease and desist orders to prevent certain acts and practices pending completion of Federal Trade Commission proceedings; to the Commerce Committee. Remarks of author. pp. 18207-8
31. RECREATION. S. Con. Res. 48, by Sen. Metcalf, to express sense of Congress on making studies to identify remaining shoreline recreation sites along the rivers of the United States, which was referred to the Interior and Insular Affairs Committee. Remarks of author. pp. 18208-9
32. FORESTRY. H. R. 9219, by Rep. McMillan, and H. R. 9220, by Rep. May, to authorize the Secretary of Agriculture to encourage and assist the several States in carrying on a program of forestry research; to the Agriculture Committee.
33. PERSONNEL. H. R. 9223, by Rep. St. Germain, to provide for recognition of Federal employee unions and to provide procedures for the adjustment of grievances to the Post Office and Civil Service Committee.
34. PROPERTY. H. R. 9226, by Rep. Smith of Iowa, to amend the Federal Property and Administrative Services Act of 1949 with respect to the procurement of property and services; to the Government Operations Committee.

#### PRINTED HEARINGS RECEIVED IN THIS OFFICE

35. TOBACCO. H. R. 1022, lease and transfer of tobacco acreage allotments. House Agriculture Committee.

## DELAWARE RIVER BASIN COMPACT

SEPTEMBER 14, 1961.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs,  
submitted the following

### REPORT

[To accompany H.J. Res. 225]

The Committee on Interior and Insular Affairs to whom was referred the resolution (H.J. Res. 225) to grant the consent of Congress to the Delaware River Basin compact and to enter into such compact on behalf of the United States, and for related purposes, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

House Joint Resolution 225 had been referred to the Senate Committee on the Judiciary and was favorably reported by that committee on August 31 (S. Rept. 845). Under the order of the Senate entered July 7, 1961, the measure was then referred to the Committee on Interior and Insular Affairs for consideration.

Action by the Committee on Interior and Insular Affairs was unanimous.

#### PURPOSE OF MEASURE

The purpose of House Joint Resolution 225 is to bring about, in the words of the compact,

the conservation, utilization, development, management, and control of the water and related resources of the Delaware River Basin under a comprehensive multipurpose plan—

to meet the needs of the 22 million people presently living and working in the basin area and those of the 30 to 40 million that it is anticipated will be living and working there in the next half century.

The bill would further this purpose by granting the consent of Congress to a Delaware River Basin compact, the terms of which have been agreed upon by the four populous and economically developed States involved: New York, Pennsylvania, New Jersey, and Delaware. It would also provide for participation in the compact and the



development under it by the Federal Government. Federal participation would take place through membership on a Delaware River Basin Commission created by the compact which would have overall policy, planning, construction, operating, and administrative authority for water and related resource development of the Delaware River Basin.

#### THE COMMISSION

The Commission would be composed of the Governors of the States of New York, Pennsylvania, New Jersey, and Delaware, plus a member to be appointed by the President. Despite a provision of the compact itself in article 2, section 2.2, that the Commissioner appointed by the President shall "serve during the term of office of the President," an amendment recommended by the Secretary of the Interior and adopted by both the Senate Judiciary and Interior Committees provides that said commissioner shall serve at the pleasure of the President.

Each of the five commissioners will have one vote, and the Commission itself will elect its chairman and vice chairman. Most decisions of the Commission will be made by majority vote.

Thus, as stated in the report of the Secretary of the Interior, who has been authorized to speak in behalf of all Federal executive agencies, the proposed legislation would—

create unique governmental machinery to administer the water and related land resources of the Delaware Basin, to wit, an interstate-Federal Commission.

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} Unlike previous interstate river basin compacts, this one would bind the United States on generally the same basis as the participating States. The Federal Government would, however, be given special standing by section 1.4 of the compact which provides that adoption of the compact would not relinquish the functions, powers, or duties of Congress with respect to control of navigable waters, and that Congress could withdraw the Federal Government as a party or revise or modify the terms under which it would remain a party to the compact. Subject to this special provision, the United States would be controlled by the State-dominated commission in future Federal activities in the basin.

Thus, House Joint Resolution 225 marks a new development in Federal-State water resource development relationships, with the Commission operating as an agency and instrumentality of all participating States and of the Federal Government. The compact would mandate the Commission to develop and effectuate plans, policies, and projects relating to the water resources of the basin. It would grant the Commission authority to control development of these resources. The Commission would be empowered to construct and operate its own projects and facilities, financing them through loans, grants, or the issuance of bonds. It could establish standards of planning design and operation for all projects and facilities in the basin which affect its water resources. No project having a substantial effect on the basin's water resources could be undertaken by a

private, local, State, or Federal authority without approval of the Commission. Its areas of control and development would include water supply, pollution control, flood protection, watershed management, recreation, hydroelectric power, and the regulation of withdrawals and diversions of water. In all these fields, the Commission could cooperate in resource development and management with all other governmental agencies.

#### NEED FOR LEGISLATION

The Constitution of the United States requires that compacts or agreements between or among the States be approved by Congress. In addition the preamble to the compact, as agreed upon by the four States of the Delaware Basin, recites the following facts:

Whereas decisions of the U.S. Supreme Court relating to the waters of the basin have confirmed the interstate regional character of the water resources of the Delaware River Basin, and the U.S. Corps of Engineers has in a prior report on the Delaware River Basin (H. Doc. 179, 73d Cong., 2d sess.) officially recognized the need for an interstate agency and the economies that can result from unified development and control of the water resources of the basin; and

Whereas the water resources of the basin are presently subject to the duplicating, overlapping, and uncoordinated administration of some 43 State agencies, 14 interstate agencies, and 19 Federal agencies which exercise a multiplicity of powers and duties resulting in a splintering of authority and responsibilities; and

Whereas the joint advisory body known as the Interstate Commission on the Delaware River Basin (Incode), created by the respective commissions or Committee on Interstate Cooperation of the States of Delaware, New Jersey, New York, and Pennsylvania, has on the basis of its extensive investigations, surveys, and studies concluded that regional development of the Delaware River Basin is feasible, advisable, and urgently needed; and has recommended that an interstate compact with Federal participation be consummated to this end; and

Whereas the Congress of the United States and the executive branch of the Government have recognized the national interest in the Delaware River Basin by authorizing and directing the Corps of Engineers, U.S. Department of the Army, to make a comprehensive survey and report on the water and related resources of the Delaware River Basin, enlisting the technical aid and planning participation of many Federal, State, and municipal agencies dealing with the waters of the basin, and in particular the Federal Departments of Agriculture, Commerce, Health, Education, and Welfare, Interior, and Federal Power Commission \* \* \*

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## THE LEGISLATIVE SITUATION

Four legislative committees of the 87th Congress have considered proposed legislation approving the Delaware River Basin compact as House and Senate companion measures have gone forward. All four legislative committees have reported favorably.

In the House, House Joint Resolution 225 was introduced by Congressman Francis E. Walter, of Pennsylvania, on February 15 and was referred to the Committee on the Judiciary.

A public hearing was held on March 8, and the measure was reported favorably to the House without amendment on April 26, and with supplemental views raising constitutional issues being submitted by Congressman William C. Cramer, of Florida (H. Rept. 310, to accompany H.J. Res. 225). A similar measure, House Joint Resolution 231, was sponsored by Congressman Harris B. McDowell, of Delaware.

House Joint Resolution 225 passed the House on June 29, and in the Senate was referred to the Committee on the Judiciary. That committee reported the measure favorably, with amendments, on August 31 (S. Rept. 854, to accompany H.J. Res. 225). Thereupon, under the order of the Senate of July 7, the resolution was referred to the Committee on Interior and Insular Affairs because of this committee's responsibility, under the Legislative Reorganization Act, for interstate compacts affecting water for irrigation purposes (sec. 102(m)9 of Public Law 601, 79th Cong.), and its overall dominant responsibility for water resource development. A list of some of the precedents over the past 12 years for referral of water compacts to this committee is set forth as an appendix to this report.

In the Senate, a companion bill, S. 856, was introduced on February 9 by Senator Clark of Pennsylvania for himself and each of the Senators on both sides of the aisle from the four States in the basin. This measure was referred to the Committee on Public Works. Public hearings were held by that committee on August 24, at which the Secretary of the Interior, Stewart Udall testified, as did Gen. William F. Cassidy of the Corps of Engineers. S. 865 was favorably reported, with amendments, to the Senate on September 13 (S. Rept. 985, Calendar No. 968).

## THE AMENDMENTS

Subsequent to passage by the House of House Joint Resolution 225, the Department of the Interior on behalf of all Federal executive agencies submitted a report on both the House and Senate bills to the chairmen of the three Senate committees with responsibility for the compact measures. In his report, Secretary Udall stated that the Federal executive agencies would not object to enactment of House Joint Resolution 225 with the amendments recommended. Attached were 21 recommended amendments, with an explanation of each.

The Secretary's report and recommendations are both set forth in their entirety below.

The Committee on the Judiciary adopted all of the Secretary's proposals except the one designated "(t)" in the report. This is the "preference clause," the text of which is as follows:

(t) In making sales or leases of hydroelectric power generated pursuant to Article 9 of the Compact, preference shall



be given to public bodies and cooperatives so defined in section 3 of chapter 720 of the Act of August 20, 1937, 50 Stat. 733 (Title 16, U.S. Code, section 832b).

The Secretary of the Interior explained the proposed amendment as follows:

The Commission is by section 2.1 of the Compact, an agency and instrumentality of the Federal Government. It has been national policy since 1906 to provide for preference in the sale of power developed under Federal auspices. Particularly should such a requirement apply when substantial Federal funds are involved.

#### CONSIDERATION OF PREFERENCE CLAUSE

All four legislative committees gave careful consideration to inclusion of the preference clause, as recommended above. None of the four adopted it.

The House committee report sets forth the following explanation which the Senate Interior Committee approves and adopts:

The question of the application of national policy with respect to hydroelectric power in the Delaware River Basin was particularly urged upon this committee. Representatives of the public power association and of rural electric cooperatives were critical of the failure of the compact to include a preference clause giving public bodies and cooperatives a prior right to purchase such power as might be generated by projects in the basin. In addition, it is argued that the basin agency should be required to construct transmission lines at public expense in order to enable the preference customers to take advantage of their preference. The compact draft is, of course, neutral on the issue of public versus private power. The preference clause and related matters is not made a part of the compact because the compact deals with the structure of the administrative agency and does not actually authorize any particular project; project authorization is to come later. When the authorization is made, and it is apparent whether Federal funds or State funds are to be employed, the preference question can be resolved project by project.

The preference clause is a matter of both philosophy and practical construction of the compact bill. From the viewpoint of national policy it should be kept in mind that we are not here considering a TVA area. The Delaware River Basin is already covered by a grid of marketing facilities, including transmission, which are owned and operated by privately owned public utilities. It is at least questionable whether the public interest is best served by duplicating transmission facilities which are already available in order to implement a preference to the very small segment of the electric utility distribution systems. Public power is now 1 percent of installed capacity in the basin, and it has been estimated that the potential of development under the proposed basin agency would be less than 5 percent of the total capacity in the basin.

It is also questionable whether Federal policy which has been developed to encourage the electrification of areas lacking proper service is actually applicable under the highly urbanized condition of the Delaware River Basin. If power is sold to investor-owned public

utilities, and at a reasonable profit, the greater public benefit might lie in two factors, not present in other areas.

(a) The public investment could provide lower cost power to the greater number of people served by private power utilities; and

(b) A greater benefit to the area as a whole might be achieved by allowing the basin agency to realize some net revenues from hydropower and thereby to make feasible other public benefit projects which are equally important to the customers of rural electric and municipal public utilities.

Beyond these policy considerations, the committee is convinced that the existing preference clauses, such as that contained in the Flood Control Act of 1944 (sec. 5) governing projects financed with Federal funds, would continue to apply to any projects authorized under that act, unless the Congress were to specifically provide otherwise. By contrast, if the preference clause were to be written into the present compact bill, the Congress would be asking the four States which have no such policy to subscribe to it even as to projects which may be financed solely out of State funds. This is the place where National policy and State policy can easily be reconciled simply by leaving the compact draft neutral on the question, as it now is, and determining the preference question when specific projects are authorized in the future. At present we are writing a constitution for the basin agency; in the future when we write the legislation to authorize projects will be the time to deal with the preference question.

#### THE COMMITTEE AMENDMENTS

The Committee on Interior and Insular Affairs has adopted all of the amendments approved by the Committee on the Judiciary, and in addition has adopted an additional amendment, as follows:

On page 76, line 8, insert a new subsection (a):

(a) Notwithstanding any provision of the Delaware River Basin compact the Delaware River Basin Commission shall not undertake any project (as defined in such compact) beyond the planning stage until—

(1) such Commission has submitted to the Congress such complete plans and estimates for such project as may be necessary to make an engineering evaluation of such project, including—

(A) where the project will serve more than one purpose, an allocation of costs among the purposes served and an estimate of the ratio of benefits to costs for each such purpose;

(B) an apportionment of costs among the beneficiaries of the project, including the portion of the costs to be borne by the Federal Government and by State and local governments; and

(C) a proposal for financing the project, including the terms of any proposed bonds or other evidences of indebtedness to be used for such purpose; and

(2) such project has been authorized by Act of Congress.

Reletter present subsections accordingly.

This amendment is similar to the new section 15.1(a) adopted by the Committee on Public Works to S. 856 (p. 69, lines 20-21). However, it is broader than the provision in S. 856 in that it provides that construction of all Commission projects which are a part of a comprehensive plan for Delaware River Basin development must be authorized by Congress in the regular manner. The Public Works Committee's amendment exempts projects to be constructed with State-supplied funds.

The Interior Committee gave thorough consideration to the proposal for exemption from congressional authorization of projects to be built by a State, but concluded that the concept of "long-range, comprehensive basinwide development" does not admit to exceptions and exemptions on a project by project basis. Rather comprehensive development calls for the kind of impartial and objective consideration that Congress best can give. This view is not intended to be in any way in derogation of the objectivity and breadth of vision of the members of the Commission. However, the commissioners, with the exception of the Federal appointee, will be officials of the individual States, and will be responsible for construction and operation, as well as policy planning.

Furthermore, the committee found it difficult to define precisely "State supplied funds" in the context of the amendment. Would such funds include revenues from a power or municipal water project wholly within a State but which might have been built in part with Federal funds? Again, would such funds include the proceeds from the sale of revenue bonds the commission is authorized to issue?

The committee's conclusion is that its amendment is not unduly restrictive and is in the best interests of the States of the basin from the point of view of long-range, comprehensive planning.

The committee also is striking subsection 15.1(t) in the Judiciary Committee's amendments to the resolution. This subsection was included in the reported measure through inadvertence, as reflected in that committee's report.

#### REPORTS OF CONGRESSIONAL COMMITTEES

With the reports of three other committees of Congress before the Senate on the Delaware Basin compact (House Judiciary Committee Rept. No. 310 on H.J. Res. 225; Senate Judiciary Committee Rept. No. 854 on H.J. Res. 225; and Senate Public Works Committee Rept. No. 985 on S. 856), the Interior Committee does not deem it necessary to go into further detailed analysis of the compact and the amendments. All of the amendments except that calling for cost allocation and congressional authorization are discussed in the report of the Secretary of the Interior to Chairman Anderson. The authorization amendment has been discussed in some detail above.

#### EXECUTIVE AGENCY REPORT

The report to Chairman Anderson of the Secretary of the Interior on House Joint Resolution 225, together with suggested amendments and explanations thereof, is set forth in full below. As stated, the Interior Department reported on the measure for all of the executive agencies.



DEPARTMENT OF THE INTERIOR,  
Washington, D.C., August 15, 1961.

HON. CLINTON P. ANDERSON,  
*Chairman, Committee on Interior and Insular Affairs,*  
*U.S. Senate, Washington, D.C.*

DEAR SENATOR ANDERSON: This responds to your request for the views of this Department on House Joint Resolution 225, a bill to grant the consent of Congress to the Delaware River Basin compact and to enter into such compact on behalf of the United States and for related purposes.

In order to give your committee the benefit of the executive agencies' position on the bill before the end of the session, this Department has been authorized to make its report on behalf of all Federal executive agencies. The Federal executive agencies would not object to the enactment of House Joint Resolution 225 with the amendments recommended in this report.

This legislation, without taking into account our proposed amendments, seeks to create unique governmental machinery to administer the water and related land resources of the Delaware Basin; to wit, an interstate-Federal Commission. This Commission would be composed of Governors of Delaware, New Jersey, New York, and Pennsylvania, and one member appointed by the President of the United States. Each member would have a single vote, and in most instances majority vote would control. The duration of the compact would be 100 years. It would continue for additional periods of 100 years, unless a State legislature or Congress gave notice of termination between the 75th and 80th years.

The Commission would operate as an agency and instrumentality of all participating States and of the Federal Government. The compact would mandate the Commission to develop and effectuate plans, policies, and projects relating to the water resources of the basin. It would grant also the Commission sufficient power to control development of these resources. The Commission would be empowered to construct and operate its own projects and facilities, financing them through loans, grants or the issuance of bonds. It could establish standards of planning design and operation for all projects and facilities in the basin which affect its water resources. No project having a substantial effect on the basin's water resources could be undertaken by a private, local, State, or Federal authority without approval of the Commission. Its areas of control and development would include water supply, pollution control, flood protection, watershed management, recreation, hydroelectric power, and the regulation of withdrawals and diversions of water. In all these fields, the Commission could cooperate in resource development and management with all other governmental agencies.

Unlike previous interstate river basin compacts, this one would bind the United States on generally the same basis as the participating States. The Federal Government would, however, be given special standing by section 1.4 of the compact which provides that adoption of the compact would not relinquish the functions, powers, or duties of Congress with respect to control of navigable waters, and that Congress could withdraw the Federal Government as a party or revise or modify the terms under which it would remain a party to the compact. Subject to this special provision, the United States would be

controlled by the State-dominated Commission in future Federal activities in the basin. No Federal expenditure or commitment for construction, acquisition, or operation of a project or facility affecting the basin water resources would be deemed authorized until it was first included in the Commission's comprehensive plan.

As a Federal agency, the Commission could be outside the jurisdiction of many Federal regulatory agencies. The repealer provision would amend all Federal acts or part of acts inconsistent with any provision of the compact to the extent necessary to carry out the compact's provisions. In effect, the compact would substitute the commission for the Federal and State Governments in planning, operating, controlling, and regulating the water resources of the Delaware River.

The breadth of the powers, both State and Federal, which would be conferred upon the compact Commission, its distribution of voting strength and the difficulties inherent in coordination of the commission's authority with national water resource policies developed by Congress raise serious questions as to the efficacy of the compact and as to its compatibility with appropriate State-Federal relationships.

On the other hand, for more than 25 years efforts to reach agreement on natural resource development in the Delaware Basin have met with failure or, at most, only partial success. Previous suggested compacts have failed of passage in one or more of the State legislatures involved. The present compact, however, has been approved in all four States and now awaits only congressional consent and approval of Federal participation. The States of the basin, by voting their approval, have evinced their strong desire to proceed under the pattern of the proposed compact.

Because of the urgent need for flood control and the immediate need for recreational and industrial planning and development in the Delaware River Basin, Federal representatives have met over the past 4 months with representatives of the four State Governors in an attempt to formulate mutually acceptable conditions which could be recommended to the Congress as a basis for Federal participation and enactment of consent legislation.

These discussions have resulted in agreement on proposed amendments to House Joint Resolution 225 which would provide the minimum necessary protection of Federal interests. The only item on which agreement could not be reached was the applicability of the preference clause in connection with the power dispositions by the Commission.

Even with these proposed amendments, the bill would not be acceptable were it not for the unique conditions and history in the Delaware Basin. We continue to hold the view that the Water Resources Planning Act of 1961 which the President proposed to the Congress in his message of July 13, 1961, provides generally a better method of Federal-State cooperation in planning for river-basin development. Inadequacies of the compact, even with the amendments proposed, demonstrate the need for such legislation. Nevertheless we have reached the conclusion that the urgent needs for resource planning and development in this area of mounting congestion outweigh the negative features of the compact. We do not object to this plan for resource development in the Delaware Basin under the particular conditions



set out in this report. It should, however, establish no precedent in our search for orderly maximum development of this Nation's water resources.

The amendments proposed, with the reasons for each, are attached hereto as an appendix to this report.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Copies of this report are being distributed to the Federal agencies involved and they are invited to comment directly to your committee if additional comments are necessary.

Sincerely yours,

STEWART L. UDALL,  
*Secretary of the Interior.*

#### ADDENDUM TO REPORT ON HOUSE JOINT RESOLUTION 225

Pursuant to our report on House Joint Resolution 225, we recommend the following amendments to the bill. Explanatory material is inserted after each subsection of the proposed amendment. While some of the subsections in the proposed amendment are identical to certain provisions of section 15.1 as it was enacted in the House, all are the result of our discussions with representatives of the Delaware Basin States, as outlined in our report. For purposes of clarity, we are including comments on all amendments deriving from these discussions.

We propose that part II, article 15, of the bill be deleted and the following part II, article 15, be substituted in lieu thereof:

#### "PART II

#### "ARTICLE 15. RESERVATIONS

"15.1 In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

"(a) No provision of Section 3.7 of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the Basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the Compact; or to impose any charges with respect to commercial navigation within the Basin, jurisdiction over which is reserved to the Federal Government: *Provided*, That this paragraph shall be applicable to the extent not inconsistent with Section 1.4 of this Compact."

The purpose of this amendment is merely to clarify the intent of Section 3.7 of the Compact.

"(b) Nothing contained in the Compact shall be deemed to restrict the executive powers of the President in the event of a national emergency."

This amendment would assure that the President's powers in the event of national emergency are not restricted by the Compact.



“(c) Notwithstanding the provisions of Article 2, section 2.2, of the Compact, the member of the commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President.”

Section 2.2 now provides that the member appointed by the President serves during the term of office of the President. This amendment would place the tenure of the Federal member on the same basis as that which prevails generally for principal executives in the Federal service.

“(d) Nothing contained in the Compact shall be construed as impairing or in any manner affecting the applicability to all Federal funds budgeted and appropriated for use by the Commission, of such authority over budgetary and appropriation matters as the President and Congress may have with respect to agencies in the Executive Branch of the Federal Government.”

This amendment would assure that no Federal funds are made available to the Commission unless they have been budgeted and appropriated in accordance with general law and standard Federal procedures.

“(e) Except to the same extent that State bonds are or may continue to be free or exempt from Federal taxation under the internal revenue laws of the United States, nothing contained in the compact shall be construed as freeing or exempting from internal revenue taxation in any manner whatsoever any bonds issued by the commission, their transfer, or the income therefrom (including any profits made on the sale thereon).”

Section 12.8 of the Compact grants a tax exemption for bonds of the Commission and interest thereon for the life of the Compact. This amendment would place the Commission bonds on a par with all other State bonds as respects Federal taxation.

“(f) Nothing contained in the compact shall be construed to obligate the United States legally or morally to pay the principal or interest on any bonds issued by the Delaware River Basin Commission.”

Section 12.20 of the Compact already states that the parties will provide only such capital funds as are authorized by their respective statutes. This amendment would merely assure that no legal or moral obligation to pay principal or interest on bonds could be inferred from other language of the Compact.

“(g) Notwithstanding the provisions of section 11.5 or any other provision of the Compact, the furnishing of technical services to the Commission by agencies of the executive branch of the Government of the United States is pledged only to the extent that the respective agencies shall from time to time agree thereto or to the extent that the President may from time to time direct such agencies to perform such services for the Commission. Nothing in the Compact shall be deemed to require the United States to furnish administrative services or facilities for carrying out functions of the Commission except to the extent that the President may direct.”

Section 11.5 of the Compact would pledge each signatory party to provide technical services (within the limits of available appropriations) to the Commission. This amendment would assure retention by the President and respective Federal agencies of control over the furnishing of such services, and would prevent interpretation of the Compact to require the furnishing of administrative services by Federal agencies.

“(h) All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are undertaken by the Commission or are financially assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the locality so determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in any workweek, as the case may be. A provision stating the minimum wages thus determined and the requirement that overtime be paid as above provided shall be set out in each project advertisement for bids and in each bid proposal form and shall be made part of the contract covering the project. The Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards specified in this provision, the supervisory, investigatory and other authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).”

Since the Commission would be a Federal instrumentality, this amendment would apply Federal labor standards, to its contracting operations.

“(i) Contracts for the manufacture or furnishing of materials, supplies, articles and equipment with the Commission which are in excess of \$10,000 shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq).”

This amendment is similar in purpose to that of paragraph (h).

The Walsh-Healey Act provides for labor standards in connection with supply contracts.

“(j) Notwithstanding any other provision of this act, nothing contained in this Act or in the Compact shall be construed as superseding or limiting the functions, under any other law, of the Secretary of Health, Education, and Welfare or of any other officer or agency of the United States, relating to water pollution: *Provided*, That the exercise of such functions shall not limit the authority of the commission to control, prevent, or abate water pollution.”

The interaction of Article 5 relating to water pollution and the repealer clause of the Compact with present Federal laws for abatement of pollution raised the possibility that Federal powers in this area might in some way be limited by the Compact. This amendment would make certain that existing Federal authority to abate or assist in the abatement of water pollution would not be affected by the Compact.

“(k) The provisions of section 8.4 of Article 8 of the Compact shall not be construed to apply to facilities operated pursuant to any other Federal law.”

Section 8.4 of the Compact would empower the Commission to adopt regulations for the award of private concession contracts in connection with recreation facilities. This amendment would prevent application of Commission regulations to concessions awarded in connection with the operation of recreation facilities by other Federal agencies.



"(1) For purposes of the Act of June 25, 1948, 62 Stat. 982, as amended (Title 28, U.S. Code, chapter 171, and sections 1346(b) and 240(b)) and the Act of March 3, 1887, 24 Stat. 505, as amended (Title 28, U.S. Code, sections 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412, 2501), and the Act of June 11, 1946, 60 Stat. 237, as amended (Title 5, U.S. Code, sections 1001 and 1011, Title 50 App. U.S. Code, section 1900), the Commission shall not be considered a Federal agency."

Because the Commission would be a Federal agency, this amendment is necessary to exempt it from the Federal Tort Claims Act, Tucker Act, and Administrative Procedure Act.

"(m) The officers and employees of the Commission (other than the United States member, alternate United States member, and advisors, and personnel employed by the United States member under direct Federal appropriation) shall not be deemed to be, for any purpose, officers or employees of the United States or to become entitled at any time by reason of employment by the Commission to any compensation or benefit payable or made available by the United States solely and directly to its officers or employees."

The status of the Commission as a Federal agency also necessitates this amendment to provide that employees of the Commission are not deemed employees of the United States or entitled to any compensation or benefits available only to such employees.

"(n) Neither the Compact nor this Act shall be deemed to enlarge the authority of any Federal agency other than the Commission to participate in or to provide funds for projects or activities in the Delaware River Basin."

This amendment is designed to assure that Congressional and executive direction as to activities of Federal agencies in the Basin is preserved.

"(o) The United States district courts shall have original jurisdiction of all cases or controversies arising under the Compact, and this Act and any case or controversy so arising initiated in a State Court shall be removable to the appropriate United States district court in the manner provided by section 1446, title 28, United States Code. Nothing contained in the Compact or elsewhere in this Act shall be construed as a waiver by the United States of its immunity from suit."

The Compact would allow court appeals from many decisions of the Commission. This amendment would establish Federal court jurisdiction over cases arising under the Compact, and would assure that any such cases initiated in a State court could be removed to a Federal court.

"(p) The right to alter, amend, or repeal this Act is hereby expressly reserved. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by the Delaware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee."

The first sentence of this amendment is a standard provision to enable Congress to alter, amend or repeal this Act at any time in the future. This sentence would also clarify any ambiguities in the language of Section 1.4 of the Compact. That section would allow Congress to modify the terms under which it may



remain a party to the Compact "by amendment, repeal or modification of any Federal statute applicable thereto \* \* \*." The proposed amendment would assure that this language is not construed to apply only to existing Federal statutes and allows Congress full latitude in future legislation. The second sentence of the amendment was suggested by the Judiciary Committee of the House of Representatives.

"(q) The provisions of section 2.4 and 2.6 of Article 2 of the Compact notwithstanding, the member and alternate member appointed by the President and advisor there referred to may be paid compensation by the United States, such compensation to be fixed by the President at the rates which he shall deem to prevail in respect to comparable officers in the executive branch."

Sections 2.4 and 2.6 of the Compact provide that the members of the Commission and their alternates and advisors shall serve without compensation. Since State governors represent the States on the Commission and other State officers may serve as alternates and advisors, this provision may be appropriate for them, but in the event that the Federal member or his alternate or advisor holds no other Federal office obviously compensation would be required.

"(r) 1. Nothing contained in this Act or in the Compact shall impair or affect the constitutional authority of the United States or any of its powers, rights, functions, or jurisdiction under other existing or future legislation in and over the area or waters which are the subject of the Compact including projects of the Commission: *Provided*, That whenever a comprehensive plan, or any part or revision thereof, has been adopted with the concurrence of the member appointed by the President, the exercise of any powers conferred by law on any officer, agency or instrumentality of the United States with regard to water and related land resources in the Delaware River Basin shall not substantially conflict with any such portion of such comprehensive plan and the provisions of Section 3.8 and Article 11 of the Compact shall be applicable to the extent necessary to avoid such substantial conflict: *Provided further*, That whenever the President shall find and determine that the national interest so requires, he may suspend, modify or delete any provision of the comprehensive plan to the extent that it affects the exercise of any powers, rights, functions, or jurisdiction conferred by law on any officer, agency or instrumentality of the United States other than the Commission. Such action shall be taken by Executive order in which such finding and determination shall be set forth.

"2. For the purposes of paragraph 1 hereof, concurrence by the member appointed by the President shall be presumed unless within 60 days after notice to him of adoption of the comprehensive plan, or any part or revision thereof, he shall file with the Commission notice of his nonconcurrence. Each concurrence of the member appointed by the President in the adoption of the comprehensive plan or any part or revision thereof may be withdrawn by notice filed with the Commission at any time between the first and sixtieth day of the sixth year after the initial adoption of the comprehensive plan and of every sixth year thereafter."

In the absence of this proposed amendment, the Compact would exempt the Commission from much of the regulatory

control of Federal agencies, and would require Commission approval for any Federal or federally licensed project developing the water or related land resources of the basin. This amendment would provide that the licensing and regulatory authorities of the Federal agencies and the powers of other Federal agencies to act with regard to projects in the basin would be preserved, except that where the Federal member concurred in the adoption of the comprehensive plan or any part or revisions thereof, the exercise of any of these powers by any Federal agency could not substantially conflict with that portion of the comprehensive plan. It would also provide that the Federal member could review his concurrences every six years. As a further safeguard the President would have the power at any time the national interest so required to suspend, modify, or delete any provision of the comprehensive plan insofar as it might affect the exercise of any Federal powers.

“(s) In the event that any phrase, clause, sentence, or provision of Section 1.4 of Article 1 of the Compact, is declared to be unconstitutional under the constitution of any of the signatory parties, or the applicability thereof to any signatory party, agency, or person is held invalid by a court of last resort of competent jurisdiction, the United States shall cease to be a party to the Compact, except to the extent that the President deems remaining a party necessary and proper to protect the national interest, and shall cease to be bound by the terms thereof.”

All these amendments in this report are proposed to be made pursuant to the provision of Section 1.4 of the Compact. Ordinarily, if any party to an interstate compact conditions the terms of his participation, his consent is void unless these conditions are approved by the other parties. Here, however, in Section 1.4, the other parties to this Compact have agreed in advance to allow the Federal Government to condition the terms of its participation. If this Section 1.4 were declared null and void, all Federal conditions would be void. In the absence of these conditions Federal interests would not be adequately protected. This amendment would assure that the Federal Government could withdraw in the event that Section 1.4 was invalidated.

“(t) In making sales or leases of hydroelectric power generated pursuant to Article 9 of the Compact, preference shall be given to public bodies and cooperatives so defined in section 3 of chapter 720 of the Act of August 20, 1937, 50 Stat. 733 (Title 16, U.S. Code, section 832b).”

The Commission is by Section 2.1 of the Compact, an agency and instrumentality of the Federal Government. It has been national policy since 1906 to provide for preference in the sale of power developed under Federal auspices. Particularly should such a requirement apply when substantial Federal funds are involved.

“(u) All Acts or parts of Acts inconsistent with the provisions of this Act are hereby amended for the purpose of this Act to the extent necessary to carry out the provisions of this Act: *Provided, however,* That no act of the Commission shall have the effect of repealing, modifying or amending any Federal law.”

This amendment is similar to Section 15.1 of the bill, but would add a proviso to assure that, in the exercise of the broad powers

granted it by the Compact, the Commission could not effect the repeal or modification of any Federal law. Also in the first line of the paragraph, the words "any provision" would be changed to "the provisions" to assure that any determination of inconsistency take into account the effect of these reservations upon the body of the Compact.

#### EFFECTUATION

"15.2. (a) The President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the Compact and the initial organization and operation of the Commission thereunder."

This provision is now incorporated in S. 856 as Section 15.2.

"(b) Executive departments and other agencies of the executive branch of the Federal Government shall cooperate with and furnish appropriate assistance to the United States member. Such assistance shall include the furnishing of services and facilities and may include the detailing of personnel to the United States member. Appropriations are hereby authorized as necessary for the carrying out of the functions of the United States member, including appropriations for the employment of personnel by the United States member."

This amendment is recommended to insure full cooperation between the Federal member of the Commission and the Federal agencies.

#### EFFECTIVE DATE

"15.3. This Act shall take effect immediately."

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### APPENDIX

#### COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, *July 6, 1961.*

Memorandum to: Senator Clinton P. Anderson, committee chairman.  
From: Stewart French, chief counsel.

Subject: Committee jurisdiction over interstate river compacts.

In addition to the provisions of the Legislative Reorganization Act (Public Law 601, 79th Cong.), there are many, many precedents in the years since you have been a member of the committee for referral to the Interior Committee of measures dealing with interstate compacts on rivers, regardless of whether the legislation or the compacts even mention water for irrigation.

The precedent in the 81st Congress most opposite for referral of the Delaware compact to us is the Pecos River compact between New Mexico and Texas in 1949. Both the Senate and House measures, S. 842 and H.R. 3344, were referred to us. You were a cosponsor of S. 842, and reported both the Senate and House bills on May 20, 1949. The latter measure became Public Law 91, 81st Congress, found in 63 Stat. 159.

The Pecos compact which was approved stated in article I:

"The major purposes of this compact are to provide for the equitable division and apportionment of the use of the waters of the Pecos



River; to promote interstate comity; to remove causes of present and future controversies; to make secure and protect present development within the States; to facilitate the construction of works for (a) the salvage of water, (b) the more efficient use of water, and (c) the protection of life and property from floods" (63 Stat. 160).

Neither in the compact itself nor in the language granting approval is there any reference to irrigation.

It is submitted that this language is less broad, and has less reference to water for irrigation, than does the language of House Joint Resolution 225, which refers in haec verbis to "agricultural uses."

Surely, if our committee had jurisdiction over the Pecos River compact, and no one doubted that we did, we have jurisdiction over the Delaware compact.

Other precedents in the 81st Congress include:

H.R. 3482, referred to us in May 1949, which became Public Law 491, 81st Congress, approving the Canadian River compact among New Mexico, Oklahoma, and Texas. No mention whatever was made of waters for irrigation.

S. 4026, introduced by then Senator Lyndon Johnson, referred to us on August 9, 1950, for a compact on the Sabine River between Louisiana and Texas. No mention of irrigation.

S. 1211, referred to us in March 1949, Cheyenne River compact between South Dakota and Wyoming. No mention of irrigation.

In the 82d Congress, we had, inter alia:

S. 817 and H.R. 2470, which became Public Law 572, 82d Congress, granting consent for a compact among Idaho, Montana, Nevada, Oregon, Utah, Washington, and Wyoming on the Columbia River. No mention of irrigation.

In the 83d Congress we had another measure squarely in point with the Delaware Basin resolution, namely, the Missouri Basin compact. Two bills for this basin compact, S. 2727, and S. 2821, were referred to us. There is marked similarity between the policy statements in the Missouri Basin and the Delaware Basin measures.

Also referred to us were S. 1197, Public Law 191, Niobrara River compact between Nebraska, South Dakota, and Wyoming, in which there was no mention of irrigation, and again the Sabine River bills (Public Law 578).

In the 84th Congress, the Missouri Basin compact again was referred to us. Also we had S. 731, Public Law 97, Arkansas River compact between Oklahoma and Arkansas, with no mention of irrigation, and the Klamath River and Little Missouri River bills.

In the 85th, we had S. 1556, Public Law 184, for the compact between Montana, North Dakota, South Dakota, and Wyoming on the Little Missouri, with no mention of irrigation. Also referred to and reported by us was S. 1086, the Bear River compact among Idaho, Utah, and Wyoming, for "efficient use of water for multiple purposes; to permit additional development of the water resources of Bear River \* \* \*."

This statement of purpose is of similar import to the purposes expressed in House Joint Resolution 225.

## CONCLUSION

Thus, clearly through the years, the provisions of the Legislative Reorganization Act have been interpreted to give the Interior Committee jurisdiction over interstate water compacts generally. The record shows the committee, all of whose members are from States which have vital interests in water resource development, has handled these compact bills with expedition and care.

STEWART FRENCH, *Chief Counsel.*









Calendar No. 1014

87TH CONGRESS  
1ST SESSION

# H. J. RES. 225

[Report No. 854]

[Report No. 1032]

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## IN THE SENATE OF THE UNITED STATES

JULY 5 (legislative day, JULY 3), 1961

Read twice and referred to the Committee on the Judiciary

AUGUST 31, 1961

Reported by Mr. EASTLAND, with an amendment

AUGUST 31, 1961

Referred to the Committee on Interior and Insular Affairs under authority of  
the order of the Senate of July 7, 1961

[Omit the part struck through and insert the part printed in italic]

SEPTEMBER 14, 1961

Reported by Mr. JACKSON, with additional amendments

[Interior Committee amendments shown in boldface]

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## JOINT RESOLUTION

To grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes.

- 1       *Resolved by the Senate and House of Representatives*
- 2       *of the United States of America in Congress assembled,*
- 3       That the consent of Congress is hereby given to the States
- 4       of Delaware, New Jersey, and New York, and the Com-
- 5       monwealth of Pennsylvania, for the compact known as the
- 6       Delaware River Basin compact, and the United States of

1 America hereby enters into such compact, in the form as  
2 follows:

3 PART I

4 COMPACT

5 Whereas the signatory parties recognize the water and re-  
6 lated resources of the Delaware basin as regional assets  
7 vested with local, state and national interests, for which  
8 they have a joint responsibility; and

9 Whereas the conservation, utilization, development, manage-  
10 ment and control of the water and related resources of  
11 the Delaware River Basin under a comprehensive multi-  
12 purpose plan will bring the greatest benefits and produce  
13 the most efficient service in the public welfare; and

14 Whereas such a comprehensive plan administered by a basin-  
15 wide agency will provide effective flood damage reduc-  
16 tion; conservation and development of ground and sur-  
17 face water supply for municipal, industrial and agricul-  
18 tural uses; development of recreational facilities in re-  
19 lation to reservoirs, lakes and streams; propagation of  
20 fish and game; promotion of related forestry, soil con-  
21 servation and watershed projects; protection and aid to  
22 fisheries dependent upon water resources; development  
23 of hydroelectric power potentialities; improved naviga-  
24 tion; control of the movement of salt water; abatement



1 and control of stream pollution; and regulation of stream  
2 flows toward the attainment of these goals; and

3 Whereas decisions of the United States Supreme Court re-  
4 lating to the waters of the basin have confirmed the  
5 interstate regional character of the water resources of the  
6 Delaware River Basin, and the United States Corps of  
7 Engineers has in a prior report on the Delaware River  
8 Basin (House Document 179, 73d Cong., 2nd Sess.)  
9 officially recognized the need for an interstate agency  
10 and the economies that can result from unified develop-  
11 ment and control of the water resources of the basin;  
12 and

13 Whereas the water resources of the basin are presently sub-  
14 ject to the duplicating, overlapping and uncoordinated  
15 administration of some 43 state agencies, 14 interstate  
16 agencies and 19 federal agencies which exercise a multi-  
17 plicity of powers and duties resulting in a splintering of  
18 authority and responsibilities; and

19 Whereas the joint advisory body known as the Interstate  
20 Commission on the Delaware River Basin (INCodel),  
21 created by the respective commissions or committee on  
22 Interstate Cooperation of the States of Delaware, New  
23 Jersey, New York and Pennsylvania, has on the basis  
24 of its extensive investigations, surveys and studies con-

1       cluded that regional development of the Delaware River  
2       Basin is feasible, advisable and urgently needed; and has  
3       recommended that an interstate compact with federal  
4       participation be consummated to this end; and

5   Whereas the Congress of the United States and the executive  
6       branch of the government have recognized the national  
7       interest in the Delaware River Basin by authorizing  
8       and directing the Corps of Engineers, U.S. Department  
9       of the Army, to make a comprehensive survey and re-  
10      port on the water and related resources of the Delaware  
11      River Basin, enlisting the technical aid and planning  
12      participation of many federal, state and municipal agen-  
13      cies dealing with the waters of the basin, and in particu-  
14      lar the federal departments of Agriculture, Commerce,  
15      Health, Education and Welfare, Interior, and Federal  
16      Power Commission; and

17   Whereas some 22,000,000 people of the United States at  
18      present live and work in the region of the Delaware  
19      River Basin and its environs, and the government, em-  
20      ployment, industry and economic development of the  
21      entire region and the health, safety and general welfare  
22      of its population are and will continue to be vitally  
23      affected by the use, conservation, and management and  
24      control of the water and related resources of the Dela-  
25      ware River Basin; and

Whereas demands upon the waters and related resources of the basin are expected to mount rapidly because of the anticipated increase in the population of the region projected to reach 30,000,000 by 1980 and 40,000,000 by 2010, and because of the anticipated increase in industrial growth projected to double by 1980; and

Whereas water resources planning and development is technical, complex and expensive, and has often required fifteen to twenty years from the conception to the completion of a large dam and reservoir; and

Whereas the public interest requires that facilities must be ready and operative when needed, to avoid the catastrophe of unexpected floods or prolonged drought, and for other purposes; and

Whereas the Delaware River Basin Advisory Committee, a temporary body constituted by the governors of the four basin states and the mayors of the cities of New York and Philadelphia, has prepared a draft of an interstate-federal compact for the creation of a basin agency, and the signatory parties desire to effectuate the purposes thereof; Now therefore

The states of Delaware, New Jersey and New York and the Commonwealth of Pennsylvania, and the United States of America hereby solemnly covenant and agree with each other, upon the enactment of concurrent legislation by the



1 Congress of the United States and by the respective state  
2 legislatures, having the same effect as this Part, as follows:

3 ARTICLE 1

4 SHORT TITLE, DEFINITIONS, PURPOSE AND LIMITATIONS

5 Section 1.1 Short Title. This act shall be known and  
6 may be cited as the Delaware River Basin Compact.

7 1.2 Definitions. For the purposes of this compact,  
8 and of any supplemental or concurring legislation enacted  
9 pursuant thereto, except as may be otherwise required by  
10 the context:

11 (a) "Basin" shall mean the area of drainage into the  
12 Delaware River and its tributaries, including Delaware Bay;

13 (b) "Commission" shall mean the Delaware River  
14 Basin Commission created and constituted by this compact;

15 (c) "Compact" shall mean Part I of this act;

16 (d) "Cost" shall mean direct and indirect expenditures,  
17 commitment, and net induced adverse effects, whether or  
18 not compensated for, used or incurred in connection with  
19 the establishment, acquisition, construction, maintenance and  
20 operation of a project;

21 (e) "Facility" shall mean any real or personal prop-  
22 erty, within or without the basin, and improvements thereof  
23 or thereon, and any and all rights of way, water, water  
24 rights, plants, structures, machinery and equipment, ac-  
25 quired, constructed, operated or maintained for the bene-

1 ficial use of water resources or related land uses including,  
2 without limiting the generality of the foregoing, any and all  
3 things and appurtenances necessary, useful or convenient for  
4 the control, collection, storage, withdrawal, diversion, re-  
5 lease, treatment, transmission, sale or exchange of water;  
6 or for navigation thereon, or the development and use of  
7 hydroelectric energy and power, and public recreational  
8 facilities; or the propagation of fish and wildlife; or to con-  
9 serve and protect the water resources of the basin or any  
10 existing or future water supply source, or to facilitate any  
11 other uses of any of them;

12 (f) "Federal government" shall mean the government  
13 of the United States of America, and any appropriate branch,  
14 department, bureau or division thereof, as the case may be;

15 (g) "Project" shall mean any work, service or activity  
16 which is separately planned, financed, or identified by the  
17 commission, or any separate facility undertaken or to be  
18 undertaken within a specified area, for the conservation, util-  
19 ization, control, development or management of water re-  
20 sources which can be established and utilized independently  
21 or as an addition to an existing facility, and can be con-  
22 sidered as a separate entity for purposes of evaluation;

23 (h) "Signatory party" shall mean a state or common-  
24 wealth party to this compact, and the federal government;

25 (i) "Water resources" shall include water and related

1 natural resources in, on, under, or above the ground, includ-  
2 ing related uses of land, which are subject to beneficial use,  
3 ownership or control.

4 1.3 Purpose and Findings. The legislative bodies of  
5 the respective signatory parties hereby find and declare:

6 (a) The water resources of the basin are affected with a  
7 local, state, regional and national interest and their planning,  
8 conservation, utilization, development, management and con-  
9 trol, under appropriate arrangements for intergovernmental  
10 cooperation, are public purposes of the respective signatory  
11 parties.

12 (b) The water resources of the basin are subject to the  
13 sovereign right and responsibility of the signatory parties,  
14 and it is the purpose of this compact to provide for a joint  
15 exercise of such powers of sovereignty in the common in-  
16 terests of the people of the region.

17 (c) The water resources of the basin are functionally  
18 inter-related, and the uses of these resources are interdepend-  
19 ent. A single administrative agency is therefore essential  
20 for effective and economical direction, supervision and coor-  
21 dination of efforts and programs of federal, state and local  
22 governments and of private enterprise.

23 (d) The water resources of the Delaware River Basin,  
24 if properly planned and utilized, are ample to meet all  
25 presently projected demands, including existing and added



1 diversions in future years and ever increasing economies  
2 and efficiencies in the use and reuse of water resources can  
3 be brought about by comprehensive planning, programming  
4 and management.

5 (e) In general, the purposes of this compact are to  
6 promote interstate comity; to remove causes of present and  
7 future controversy; to make secure and protect present de-  
8 velopments within the states; to encourage and provide for  
9 the planning, conservation, utilization, development, manage-  
10 ment and control of the water resources of the basin; to  
11 provide for cooperative planning and action by the signatory  
12 parties with respect to such water resources; and to apply  
13 the principle of equal and uniform treatment to all water  
14 users who are similarly situated and to all users of related  
15 facilities, without regard to established political boundaries.

16 1.4 Powers of Congress; Withdrawal. Nothing in  
17 this compact shall be construed to relinquish the functions,  
18 powers or duties of the Congress of the United States with  
19 respect to the control of any navigable waters within the  
20 basin, nor shall any provision hereof be construed in deroga-  
21 tion of any of the constitutional powers of the Congress to  
22 regulate commerce among the states and with foreign na-  
23 tions. The power and right of the Congress to withdraw  
24 the federal government as a party to this compact or to

1 revise or modify the terms, conditions and provisions under  
2 which it may remain a party by amendment, repeal or  
3 modification of any federal statute applicable thereto is  
4 recognized by the signatory parties.

5       1.5 Existing Agencies; Construction. It is the purpose  
6 of the signatory parties to preserve and utilize the functions,  
7 powers and duties of existing offices and agencies of gov-  
8 ernment to the extent not inconsistent with the compact,  
9 and the commission is authorized and directed to utilize  
10 and employ such offices and agencies for the purpose of this  
11 compact to the fullest extent it finds feasible and advan-  
12 tageous.

13       1.6 Duration of Compact.

14       (a) The duration of this compact shall be for an initial  
15 period of 100 years from its effective date, and it shall be  
16 continued for additional periods of 100 years if not later  
17 than 20 years nor sooner than 25 years prior to the termina-  
18 tion of the initial period or any succeeding period none of  
19 the signatory states, by authority of an act of its legislature,  
20 notifies the commission of intention to terminate the com-  
21 pact at the end of the then current 100 year period.

22       (b) In the event that this compact should be terminated  
23 by operation of paragraph (a) above, the commission shall  
24 be dissolved, its assets and liabilities transferred, and its cor-

1 porate affairs wound up, in such manner as may be provided  
2 by act of the Congress.

## 3 ARTICLE 2

### 4 ORGANIZATION AND AREA

5 Section 2.1 Commission Created. The Delaware River  
6 Basin Commission is hereby created as a body politic  
7 and corporate, with succession for the duration of this com-  
8 pact, as an agency and instrumentality of the governments of  
9 the respective signatory parties.

10 2.2 Commission Membership. The commission shall  
11 consist of the Governors of the signatory states, ex officio,  
12 and one commissioner to be appointed by the President of the  
13 United States to serve during the term of office of the  
14 President.

15 2.3 Alternates. Each member of the commission  
16 shall appoint an alternate to act in his place and stead, with  
17 authority to attend all meetings of the commission, and with  
18 power to vote in the absence of the member. Unless other-  
19 wise provided by law of the signatory party for which he is  
20 appointed, each alternate shall serve during the term of the  
21 member appointing him, subject to removal at the pleasure  
22 of the member. In the event of a vacancy in the office of  
23 alternate, it shall be filled in the same manner as an original  
24 appointment for the unexpired term only.



1       2.4 Compensation. Members of the commission and  
2 alternates shall serve without compensation but may be re-  
3 imbursed for necessary expenses incurred in and incident to  
4 the performance of their duties.

5       2.5 Voting Power. Each member shall be entitled to  
6 one vote on all matters which may come before the commis-  
7 sion. No action of the commission shall be taken at any  
8 meeting unless a majority of the membership shall vote in  
9 favor thereof.

10       2.6 Organization and Procedure. The commission  
11 shall provide for its own organization and procedure, and  
12 shall adopt rules and regulations governing its meetings and  
13 transactions. It shall organize annually by the election of a  
14 chairman and vice-chairman from among its members. It  
15 shall provide by its rules for the appointment by each mem-  
16 ber in his discretion of an advisor to serve without compensa-  
17 tion, who may attend all meetings of the commission and its  
18 committees.

19       2.7 Jurisdiction of the Commission. The commission  
20 shall have, exercise and discharge its functions, powers and  
21 duties within the limits of the basin, except that it may in its  
22 discretion act outside the basin whenever such action may be  
23 necessary or convenient to effectuate its powers or duties  
24 within the basin, or to sell or dispose of water, hydroelectric  
25 power or other water resources within or without the basin.

1 The commission shall exercise such power outside the basin  
2 only upon the consent of the state in which it proposes to  
3 act.

## 4 ARTICLE 3

### 5 POWERS AND DUTIES OF THE COMMISSION

6 Section 3.1 Purpose and Policy. The commission shall  
7 develop and effectuate plans, policies and projects relating to  
8 the water resources of the basin. It shall adopt and promote  
9 uniform and coordinated policies for water conservation, con-  
10 trol, use and management in the basin. It shall encourage  
11 the planning, development and financing of water resources  
12 projects according to such plans and policies.

13 3.2 Comprehensive Plan, Program and Budgets. The  
14 commission shall, in accordance with Article 13 of this com-  
15 pact, formulate and adopt:

16 (a) A comprehensive plan, after consultation with water  
17 users and interested public bodies, for the immediate and  
18 long range development and uses of the water resources of  
19 the basin;

20 (b) A water resources program, based upon the com-  
21 prehensive plan, which shall include a systematic presenta-  
22 tion of the quantity and quality of water resources needs of  
23 the area to be served for such reasonably foreseeable period  
24 as the commission may determine, balanced by existing and  
25 proposed projects required to satisfy such needs, including

1 all public and private projects affecting the basin, together  
2 with a separate statement of the projects proposed to be  
3 undertaken by the commission during such period; and

4 (c) An annual current expense budget, and an annual  
5 capital budget consistent with the water resources program  
6 covering the commission's projects and facilities for the bud-  
7 get period.

8 3.3 Allocations, Diversions and Releases. The com-  
9 mission shall have the power from time to time as need  
10 appears, in accordance with the doctrine of equitable appor-  
11 tionment, to allocate the waters of the basin to and among  
12 the states signatory to this compact and to and among their  
13 respective political subdivisions, and to impose conditions,  
14 obligations and release requirements related thereto, subject  
15 to the following limitations:

16 (a) The commission, without the unanimous consent  
17 of the parties to the United States Supreme Court decree in  
18 *New Jersey v. New York*, 347 U.S. 995 (1954), shall not  
19 impair, diminish or otherwise adversely affect the diversions,  
20 compensating releases, rights, conditions, obligations, and  
21 provisions for the administration thereof as provided in said  
22 decree; provided, however, that after consultation with the  
23 river master under said decree the commission may find and  
24 declare a state of emergency resulting from a drought or  
25 catastrophe and it may thereupon by unanimous consent of



1 its members authorize and direct an increase or decrease in  
2 any allocation or diversion permitted or releases required by  
3 the decree, in such manner and for such limited time as may  
4 be necessary to meet such an emergency condition.

5 (b) No allocation of waters hereafter made pursuant to  
6 this section shall constitute a prior appropriation of the waters  
7 of the basin or confer any superiority of right in respect to the  
8 use of those waters, nor shall any such action be deemed to  
9 constitute an apportionment of the waters of the basin among  
10 the parties hereto; provided that this paragraph shall not be  
11 deemed to limit or restrict the power of the commission to  
12 enter into covenants with respect to water supply, with a dura-  
13 tion not exceeding the life of this compact, as it may deem  
14 necessary for the benefit or development of the water resources  
15 of the basin.

16 (c) Any proper party deeming itself aggrieved by action  
17 of the commission with respect to an out-of-basin diversion or  
18 compensating releases in connection therewith, notwithstand-  
19 ing the powers delegated to the commission by this compact  
20 may invoke the original jurisdiction of the United States Su-  
21 preme Court within one year after such action for an adjudica-  
22 tion and determination thereof de novo. Any other action of  
23 the commission pursuant to this section shall be subject to ju-  
24 dicial review in any court of competent jurisdiction.

25 3.4 Supreme Court Decree; Waivers. Each of the sig-

1 natory states and their respective political subdivisions, in con-  
2 sideration of like action by the others, and in recognition of  
3 reciprocal benefits, hereby waives and relinquishes any right,  
4 privilege or power it may have to apply for any modification  
5 of the terms of the decree of the United States Supreme  
6 Court in New Jersey v. New York, 347 U.S. 995 (1954)  
7 which would increase or decrease the diversions authorized  
8 or increase or decrease the releases required thereunder, ex-  
9 cept that a proceeding to modify such decree to increase  
10 diversions or compensating releases in connection with such  
11 increased diversions may be prosecuted by a proper party  
12 to effectuate rights, powers, duties and obligations under  
13 Section 3.3 of this compact, and except as may be required  
14 to effectuate the provisions of paragraphs III B 3 and V B  
15 of said decree.

16 3.5 Supreme Court Decree; Specific Limitations on  
17 Commission. Except as specifically provided in Sections  
18 3.3 and 3.4 of this article, nothing in this compact shall be  
19 construed in any way to impair, diminish or otherwise ad-  
20 versely affect the rights, powers, privileges, conditions and  
21 obligations contained in the decree of the United States  
22 Supreme Court in New Jersey v. New York, 347 U.S.  
23 995 (1954). To this end, and without limitation thereto,  
24 the commission shall not:

25 (a) Acquire, construct or operate any project or fa-

1 cility or make any order or take any action which would  
2 impede or interfere with the rights, powers, privileges, con-  
3 ditions or obligations contained in said decree;

4 (b) Impose or collect any fee, charge or assessment  
5 with respect to diversions of waters of the basin permitted  
6 by said decree;

7 (c) Exercise any jurisdiction, except upon consent of  
8 all the parties to said decree, over the planning, design,  
9 construction, operation or control of any projects, struc-  
10 tures or facilities constructed or used in connection with  
11 withdrawals, diversions and releases of waters of the basin  
12 authorized by said decree or of the withdrawal, diversions  
13 or releases to be made thereunder; or

14 (d) Serve as river master under said decree, except  
15 upon consent of all the parties thereto.

16 3.6 General Powers. The commission may:

17 (a) Plan, design, acquire, construct, reconstruct, com-  
18 plete, own, improve, extend, develop, operate and maintain  
19 any and all projects, facilities, properties, activities and serv-  
20 ices, determined by the commission to be necessary, con-  
21 venient or useful for the purposes of this compact;

22 (b) Establish standards of planning, design and opera-  
23 tion of all projects and facilities in the basin which affect  
24 its water resources, including without limitation thereto



1 water and waste treatment plants, stream and lake recrea-  
2 tional facilities, trunk mains for water distribution, local flood  
3 protection works, small watershed management programs,  
4 and ground water recharging operations;

5 (c) Conduct and sponsor research on water resources,  
6 their planning, use, conservation, management, development,  
7 control and protection, and the capacity, adaptability and  
8 best utility of each facility thereof, and collect, compile, cor-  
9 relate, analyze, report and interpret data on water resources  
10 and uses in the basin, including without limitation thereto  
11 the relation of water to other resources, industrial water  
12 technology, ground water movement, relation between water  
13 price and water demand, and general hydrological condi-  
14 tions;

15 (d) Compile and coordinate systematic stream stage  
16 and ground water level forecasting data, and publicize such  
17 information when and as needed for water uses, flood warn-  
18 ing, quality maintenance or other purposes;

19 (e) Conduct such special ground water investigations,  
20 tests, and operations and compile such data relating thereto  
21 as may be required to formulate and administer the compre-  
22 hensive plan;

23 (f) Prepare, publish and disseminate information and  
24 reports with respect to the water problems of the basin and  
25 for the presentation of the needs, resources and policies of

1 the basin to executive and legislative branches of the signa-  
2 tory parties;

3 (g) Negotiate for such loans, grants, services or other  
4 aids as may be lawfully available from public or private  
5 sources to finance or assist in effectuating any of the purposes  
6 of this compact; and to receive and accept such aid upon  
7 such terms and conditions, and subject to such provisions  
8 for repayment as may be required by federal or state law or  
9 as the commission may deem necessary or desirable;

10 (h) Exercise such other and different powers as may be  
11 delegated to it by this compact or otherwise pursuant to law,  
12 and have and exercise all powers necessary or convenient to  
13 carry out its express powers or which may be reasonably  
14 implied therefrom.

15 3.7 Rates and Charges. The commission may from  
16 time to time after public notice and hearing fix, alter and  
17 revise rates, rentals, charges and tolls and classifications  
18 thereof, for the use of facilities which it may own or operate  
19 and for products and services rendered thereby, without  
20 regulation or control by any department, office or agency  
21 of any signatory party.

22 3.8 Referral and Review. No project having a sub-  
23 stantial effect on the water resources of the basin shall here-  
24 after be undertaken by any person, corporation or govern-  
25 mental authority unless it shall have been first submitted to

1 and approved by the commission. subject to the provisions  
2 of Sections 3.3 and 3.5. The commission shall approve a  
3 project whenever it finds and determines that such project  
4 would not substantially impair or conflict with the compre-  
5 hensive plan and may modify and approve as modified, or  
6 may disapprove any such project whenever it finds and  
7 determines that the project would substantially impair or  
8 conflict with such plan. The commission shall provide by  
9 regulation for the procedure of submission, review and con-  
10 sideration of projects, and for its determinations pursuant  
11 to this section. Any determination of the commission here-  
12 under shall be subject to judicial review in any court of  
13 competent jurisdiction.

14 3.9 Coordination and Cooperation. The commission  
15 shall promote and aid the coordination of the activities and  
16 programs of federal, state, municipal and private agencies  
17 concerned with water resources administration in the basin.  
18 To this end, but without limitation thereto, the commission  
19 may:

20 (a) Advise, consult, contract, financially assist, or other-  
21 wise cooperate with any and all such agencies;

22 (b) Employ any other agency or instrumentality of any  
23 of the signatory parties or of any political subdivision thereof,  
24 in the design, construction, operation and maintenance of



1 structures, and the installation and management of river con-  
2 trol systems, or for any other purpose;

3 (c) Develop and adopt plans and specifications for par-  
4 ticular water resources projects and facilities which so far as  
5 consistent with the comprehensive plan incorporate any sep-  
6 arate plans of other public and private organizations operat-  
7 ing in the basin, and permit the decentralized administration  
8 thereof;

9 (d) Qualify as a sponsoring agency under any federal  
10 legislation heretofore or hereafter enacted to provide finan-  
11 cial or other assistance for the planning, conservation, utili-  
12 zation, development, management or control of water  
13 resources.

14 3.10 Advisory Committees. The commission may con-  
15 stitute and empower advisory committees, which may be  
16 comprised of representatives of the public and of federal,  
17 state, county, and municipal governments, water resources  
18 agencies, water-using industries, water-interest groups, labor  
19 and agriculture.

## 20 ARTICLE 4

### 21 WATER SUPPLY

22 Section 4.1 Generally. The commission shall have  
23 power to develop, implement and effectuate plans and proj-  
24 ects for the use of the waters of the basin for domestic,

1 municipal, agricultural and industrial water supply. To this  
2 end, without limitation thereto, it may provide for, construct,  
3 acquire, operate and maintain dams, reservoirs and other  
4 facilities for utilization of surface and ground water resources,  
5 and all related structures, appurtenances and equipment on  
6 the river and its tributaries and at such off-river sites as it  
7 may find appropriate, and may regulate and control the use  
8 thereof.

9 4.2 Storage and Release of Waters.

10 (a) The commission shall have power to acquire, oper-  
11 ate and control projects and facilities for the storage and  
12 release of waters, for the regulation of flows and supplies of  
13 surface and ground waters of the basin, for the protection  
14 of public health, stream quality control, economic develop-  
15 ment, improvement of fisheries, recreation, dilution and  
16 abatement of pollution, the prevention of undue salinity and  
17 other purposes.

18 (b) No signatory party shall permit any augmentation  
19 of flow to be diminished by the diversion of any water of  
20 the basin during any period in which waters are being re-  
21 leased from storage under the direction of the commission  
22 for the purpose of augmenting such flow, except in cases

1 where such diversion is duly authorized by this compact,  
2 or by the commission pursuant thereto, or by the judgment,  
3 order or decree of a court of competent jurisdiction.

4       4.3 Assessable Improvements. The commission may  
5 undertake to provide stream regulation in the main stream  
6 or any tributary in the basin and may assess on an annual  
7 basis or otherwise the cost thereof upon water users or any  
8 classification of them specially benefited thereby to a meas-  
9 urable extent, provided that no such assessment shall exceed  
10 the actual benefit to any water user. Any such assessment  
11 shall follow the procedure prescribed by law for local im-  
12 provement assessments and shall be subject to judicial review  
13 in any court of competent jurisdiction.

14       4.4 Coordination. Prior to entering upon the execu-  
15 tion of any project authorized by this article, the commission  
16 shall review and consider all existing rights, plans and pro-  
17 grams of the signatory parties, their political subdivisions,  
18 private parties, and water users which are pertinent to such  
19 project, and shall hold a public hearing on each proposed  
20 project.

21       4.5 Additional Powers. In connection with any proj-  
22 ect authorized by this article, the commission shall have



1 power to provide storage, treatment, pumping and transmis-  
2 sion facilities, but nothing herein shall be construed to au-  
3 thorize the commission to engage in the business of distribut-  
4 ing water.

## 5 ARTICLE 5

### 6 POLLUTION CONTROL

7 Section 5.1 General Powers. The commission may  
8 undertake investigations and surveys, and acquire, construct,  
9 operate and maintain projects and facilities to control poten-  
10 tial pollution and abate or dilute existing pollution of the  
11 water resources of the basin. It may invoke as complainant  
12 the power and jurisdiction of water pollution abatement agen-  
13 cies of the signatory parties.

14 5.2 Policy and Standards. The commission may as-  
15 sume jurisdiction to control future pollution and abate ex-  
16 isting pollution in the waters of the basin, whenever it de-  
17 termines after investigation and public hearing upon due  
18 notice that the effectuation of the comprehensive plan so  
19 requires. The standard of such control shall be that pollu-  
20 tion by sewage or industrial or other waste originating within  
21 a signatory state shall not injuriously affect waters of the  
22 basin as contemplated by the comprehensive plan. The  
23 commission, after such public hearing may classify the waters  
24 of the basin and establish standards of treatment of sewage,  
25 industrial or other waste, according to such classes including

1 allowance for the variable factors of surface and ground  
2 waters, such as size of the stream, flow, movement, location,  
3 character, self-purification, and usage of the waters affected.  
4 After such investigation, notice and hearing the commission  
5 may adopt and from time to time amend and repeal rules,  
6 regulations and standards to control such future pollution  
7 and abate existing pollution, and to require such treatment  
8 of sewage, industrial or other waste within a time reason-  
9 able for the construction of the necessary works, as may be  
10 required to protect the public health or to preserve the  
11 waters of the basin for uses in accordance with the compre-  
12 hensive plan.

13       5.3 Cooperative Legislation and Administration. Each  
14 of the signatory parties covenants and agrees to prohibit  
15 and control pollution of the waters of the basin according  
16 to the requirements of this compact and to cooperate faith-  
17 fully in the control of future pollution in and abatement of  
18 existing pollution from the rivers, streams, and waters in the  
19 basin which flow through, under, into or border upon any of  
20 such signatory states, and in order to effect such object,  
21 agrees to enact any necessary legislation to enable each such  
22 party to place and maintain the waters of said basin in a  
23 satisfactory condition, available for safe and satisfactory use  
24 as public and industrial water supplies after reasonable

1 treatment, suitable for recreational usage, capable of main-  
2 taining fish and other aquatic life, free from unsightly or  
3 malodorous nuisances due to floating solids or sludge deposits  
4 and adaptable to such other uses as may be provided by the  
5 comprehensive plan.

6       5.4 Enforcement. The commission may, after investi-  
7 gation and hearing, issue an order or orders upon any person  
8 or public or private corporation, or other entity, to cease  
9 the discharge of sewage, industrial or other waste into waters  
10 of the basin which it determines to be in violation of such  
11 rules and regulations as it shall have adopted for the pre-  
12 vention and abatement of pollution. Any such order or  
13 orders may prescribe the date, including a reasonable time  
14 for the construction of any necessary works, on or before  
15 which such discharge shall be wholly or partially discon-  
16 tinued, modified or treated, or otherwise conformed to the  
17 requirements of such rules and regulations. Such order shall  
18 be reviewable in any court of competent jurisdiction. The  
19 courts of the signatory parties shall have jurisdiction to en-  
20 force against any person, public or private corporation, or  
21 other entity, any and all provisions of this Article or of any  
22 such order. The commission may bring an action in its own  
23 name in any such court of competent jurisdiction to compel  
24 compliance with any provision of this Article, or any rule



1 or regulation issued pursuant thereto or of any such order,  
2 according to the practice and procedure of the court.

3 5.5 Further Jurisdiction. Nothing in this compact shall  
4 be construed to repeal, modify or qualify the authority of  
5 any signatory party to enact any legislation or enforce any  
6 additional conditions and restrictions to lessen or prevent  
7 the pollution of waters within its jurisdiction.

## 8 ARTICLE 6

### 9 FLOOD PROTECTION

10 Section 6.1 General Powers. The commission may  
11 plan, design, construct and operate and maintain projects  
12 and facilities, as it may deem necessary or desirable for  
13 flood damage reduction. It shall have power to operate such  
14 facilities and to store and release waters on the Delaware  
15 River and its tributaries and elsewhere within the basin, in  
16 such manner, at such times, and under such regulations as  
17 the commission may deem appropriate to meet flood condi-  
18 tions as they may arise.

19 6.2 Flood Plain Zoning.

20 (a) The commission shall have power to adopt, amend  
21 and repeal recommended standards, in the manner provided  
22 by this section, relating to the nature and extent of the uses  
23 of land in areas subject to flooding by waters of the Delaware  
24 River and its tributaries. Such standards shall not be

1 deemed to impair or restrict the power of the signatory par-  
2 ties or their political subdivisions to adopt zoning and other  
3 land use regulations not inconsistent therewith.

4 (b) The commission may study and determine the na-  
5 ture and extent of the flood plains of the Delaware River and  
6 its tributaries. Upon the basis of such studies, it may es-  
7 tablish encroachment lines and delineate the areas subject to  
8 flood, including a classification of lands with reference to  
9 relative risk of flood and the establishment of standards for  
10 flood plain use which will safeguard the public health, safety  
11 and property. Prior to the adoption of any standards de-  
12 lineating such area or defining such use, the commission shall  
13 hold public hearings, in the manner provided by Article 14,  
14 with respect to the substance of such standards. At or be-  
15 fore such public hearings the proposed standards shall be  
16 available, and all interested persons shall be given an oppor-  
17 tunity to be heard thereon at the hearing. Upon the adop-  
18 tion and promulgation of such standards, the commission  
19 may enter into agreements to provide technical and financial  
20 aid to any municipal corporation for the administration and  
21 enforcement of any local land use ordinances or regulations  
22 giving effect to such standards.

23 6.3 Flood Lands Acquisition. The commission shall  
24 have power to acquire the fee or any lesser interest in lands

1 and improvements thereon within the area of a flood plain  
2 for the purpose of restricting the use of such property so  
3 as to minimize the flood hazard, converting property to uses  
4 appropriate to flood plain conditions, or preventing unwar-  
5 ranted constrictions that reduce the ability of the river chan-  
6 nel to carry flood water. Any such action shall be in accord  
7 with the standards adopted and promulgated pursuant to  
8 Section 6.2.

#### 9 6.4 Flood and Stream Stage Warnings and Posting.

10 The commission may cause lands particularly subject to flood  
11 to be posted with flood hazard warnings, and may from time  
12 to time cause flood advisory notices to be published and cir-  
13 culated as conditions may warrant.

### 14 ARTICLE 7

#### 15 WATERSHED MANAGEMENT

16 Section 7.1 Watersheds Generally. The commission  
17 shall promote sound practices of watershed management in  
18 the basin, including projects and facilities to retard runoff  
19 and waterflow and prevent soil erosion.

20 7.2 Soil Conservation and Forestry. The commission  
21 may acquire, sponsor or operate facilities and projects to  
22 encourage soil conservation, prevent and control erosion, and  
23 to promote land reclamation and sound forestry practices.

24 7.3 Fish and Wildlife. The commission may acquire,



1 sponsor or operate projects and facilities for the maintenance  
2 and improvement of fish and wildlife habitats related to  
3 the water resources of the basin.

#### 4 7.4 Cooperative Planning and Operation.

5 (a) The commission shall cooperate with the appro-  
6 priate agencies of the signatory parties and with other  
7 public and private agencies in the planning and effectua-  
8 tion of a coordinated program of facilities and projects  
9 authorized by this Article.

10 (b) The commission shall not operate any such project  
11 or facility unless it has first found and determined that no  
12 other suitable unit or agency of government is available to  
13 operate the same upon reasonable conditions, in accordance  
14 with the intent and purpose expressed in Section 1.5 of this  
15 compact.

### 16 ARTICLE 8

#### 17 RECREATION

18 Section 8.1 Development. The commission shall pro-  
19 vide for the development of water related public sports and  
20 recreational facilities. The commission on its own account  
21 or in cooperation with a signatory party, political subdivi-  
22 sion or any agency thereof, may provide for the construction,  
23 maintenance and administration of such facilities, subject to  
24 the provisions of Section 8.2 hereof.

#### 25 8.2 Cooperative Planning and Operation.

1       (a) The commission shall cooperate with the appro-  
2 priate agencies of the signatory parties and with other public  
3 and private agencies in the planning and effectuation of a  
4 coordinated program of facilities and projects authorized by  
5 this article.

6       (b) The commission shall not operate any such project  
7 or facility unless it has first found and determined that no  
8 other suitable unit or agency of government is available to  
9 operate the same upon reasonable conditions, in accordance  
10 with the intent and purpose expressed in Section 1.5 of this  
11 compact.

12       8.3 Operation and Maintenance. The commission,  
13 within limits prescribed by this article, shall:

14       (a) Encourage activities of other public agencies having  
15 water related recreational interests and assist in the coordina-  
16 tion thereof;

17       (b) Recommend standards for the development and  
18 administration of water related recreational facilities;

19       (c) Provide for the administration, operation and main-  
20 tenance of recreational facilities owned or controlled by the  
21 commission and for the letting and supervision of private  
22 concessions in accordance with this article.

23       8.4 Concessions. The commission shall after notice and  
24 public hearing provide by regulation for the award of con-  
25 tracts for private concessions in connection with recreational

1 facilities, including any renewal or extension thereof, upon  
2 sealed competitive bids after public advertisement therefor.

### 3 ARTICLE 9

#### 4 HYDROELECTRIC POWER

5 Section 9.1 Development. The waters of the Dela-  
6 ware River and its tributaries may be impounded and used  
7 by or under authority of the commission for the generation  
8 of hydroelectric power and hydroelectric energy, in accord-  
9 ance with the comprehensive plan.

10 9.2 Power Generation. The commission may develop  
11 and operate, or authorize to be developed and operated,  
12 dams and related facilities and appurtenances for the purpose  
13 of generating hydroelectric power and hydroelectric energy.

14 9.3 Transmission. The commission may provide facil-  
15 ities for the transmission of hydroelectric power and hydro-  
16 electric energy produced by it where such facilities are not  
17 otherwise available upon reasonable terms, for the purpose  
18 of wholesale marketing of power and nothing herein shall  
19 be construed to authorize the commission to engage in the  
20 business of direct sale to consumers.

21 9.4 Development Contracts. The Commission may  
22 after public notice and hearing enter into contracts on rea-  
23 sonable terms, consideration and duration under which  
24 public utilities or public agencies may develop hydroelectric



1 power and hydroelectric energy through the use of dams,  
2 related facilities and appurtenances.

3       9.5 Rates and Charges. Rates and charges fixed by  
4 the commission for power which is produced by its facilities  
5 shall be reasonable, nondiscriminatory, and just.

## 6                   ARTICLE 10

### 7       REGULATION OF WITHDRAWALS AND DIVERSIONS

8       Section 10.1 Power of Regulation. The commission  
9 may regulate and control withdrawals and diversions from  
10 surface waters and ground waters of the basin, as provided  
11 by this article. The commission may enter into agreements  
12 with the signatory parties relating to the exercises of such  
13 power of regulation or control and may delegate to any of  
14 them such powers of the commission as it may deem neces-  
15 sary or desirable.

16       10.2 Determination of Protected Areas. The com-  
17 mission may from time to time after public hearing upon due  
18 notice determine and delineate such areas within the basin  
19 wherein the demands upon supply made by water users have  
20 developed or threaten to develop to such a degree as to create  
21 a water shortage or to impair or conflict with the require-  
22 ments or effectuation of the comprehensive plan, and any  
23 such areas may be designated as "protected areas." The

1 commission, whenever it determines that such shortage no  
2 longer exists, shall terminate the protected status of such  
3 area and shall give public notice of such termination.

4       10.3 Withdrawal Permits. In any protected areas so  
5 determined and delineated, no person, firm corporation or  
6 other entity shall divert or withdraw water for domestic, mu-  
7 nicipal, agricultural or industrial uses in excess of such quan-  
8 tities as the commission may prescribe by general regulation,  
9 except (i) pursuant to a permit granted under this article,  
10 or (ii) pursuant to a permit or approval heretofore granted  
11 under the laws of any of the signatory states.

12       10.4 Emergency. In the event of a drought or other  
13 condition which may cause an actual and immediate short-  
14 age of available water supply within the basin, or within any  
15 part thereof, the commission may, after public hearing, de-  
16 termine and delineate the area of such shortage and declare  
17 a water supply emergency therein. For the duration of such  
18 emergency as determined by the commission no person, firm,  
19 corporation or other public or private entity shall divert or  
20 withdraw water for any purpose, in excess of such quantities  
21 as the commission may prescribe by general regulation or  
22 authorize by special permit granted hereunder.

23       10.5 Standards. Permits shall be granted, modified or  
24 denied as the case may be so as to avoid such depletion of

1 the natural stream flows and ground waters in the protected  
2 area or in an emergency area as will adversely affect the  
3 comprehensive plan or the just and equitable interests and  
4 rights of other lawful users of the same source, giving due  
5 regard to the need to balance and reconcile alternative and  
6 conflicting uses in the event of an actual or threatened short-  
7 age of water of the quality required.

8 10.6 Judicial Review. The determinations and de-  
9 lineations of the commission pursuant to Section 10.2 and  
10 the granting, modification or denial of permits pursuant to  
11 Section 10.3 through 10.5 shall be subject to judicial review  
12 in any court of competent jurisdiction.

13 10.7 Maintenance of Records. Each state shall pro-  
14 vide for the maintenance and preservation of such records  
15 of authorized diversions and withdrawals and the annual  
16 volume thereof as the commission shall prescribe. Such  
17 records and supplementary reports shall be furnished to the  
18 commission at its request.

19 10.8 Existing State Systems. Whenever the commis-  
20 sion finds it necessary or desirable to exercise the powers  
21 conferred by this article any diversion or withdrawal per-  
22 mits authorized or issued under the laws of any of the signa-  
23 tory states shall be superseded to the extent of any conflict  
24 with the control and regulation exercised by the commission.



## ARTICLE 11

## INTERGOVERNMENTAL RELATIONS

Section 11.1 Federal Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern federal projects affecting the water resources of the basin, subject in each case to the provisions of Section 1.4 of this compact:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the commission in the comprehensive plan;

(c) Each federal agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section.

11.2 State and Local Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern projects

1 of the signatory states, their political subdivisions and public  
2 corporations affecting water resources of the basin:

3 (a) The planning of all projects related to powers dele-  
4 gated to the commission by this compact shall be undertaken  
5 in consultation with the commission;

6 (b) No expenditure or commitment shall be made for  
7 or on account of the construction, acquisition or operation of  
8 any project or facility unless it shall have first been included  
9 by the commission in the comprehensive plan;

10 (c) Each state and local agency otherwise authorized  
11 by law to plan, design, construct, operate or maintain any  
12 project or facility in or for the basin shall continue to have,  
13 exercise and discharge such authority, except as specifically  
14 provided by this section.

15 11.3 Reserved Taxing Powers of States. Each of the  
16 signatory parties reserves the right to levy, assess and col-  
17 lect fees, charges and taxes on or measured by the withdrawal  
18 or diversion of waters of the basin for use within the juris-  
19 dictions of the respective signatory parties.

20 11.4 Project Costs and Evaluation Standards. The  
21 commission shall establish uniform standards and procedures  
22 for the evaluation, determination of benefits, and cost alloca-  
23 tions of projects affecting the basin, and for the determina-  
24 tion of project priorities, pursuant to the requirements of the

1 comprehensive plan and its water resources program. The  
2 commission shall develop equitable cost sharing and reim-  
3 bursement formulas for the signatory parties including:

4 (a) Uniform and consistent procedures for the allocation  
5 of project costs among purposes included in multiple-pur-  
6 pose programs;

7 (b) Contracts and arrangements for sharing financial  
8 responsibility among and with signatory parties, public  
9 bodies, groups and private enterprise, and for the supervision  
10 of their performance;

11 (c) Establishment and supervision of a system of ac-  
12 counts for reimbursable purposes and directing the payments  
13 and charges to be made from such accounts;

14 (d) Determining the basis and apportioning amounts  
15 (i) of reimbursable revenues to be paid signatory parties or  
16 their political subdivisions, and (ii) of payments in lieu of  
17 taxes to any of them.

18 11.5 Cooperative Services. The commission shall  
19 furnish technical services, advice and consultation to author-  
20 ized agencies of the signatory parties with respect to the  
21 water resources of the basin, and each of the signatory  
22 parties pledges itself to provide technical and administrative  
23 services to the commission upon request, within the limits  
24 of available appropriations and to cooperate generally with  
25 the commission for the purposes of this compact, and the



1 cost of such services may be reimbursable whenever the  
2 parties deem appropriate.

## 3 ARTICLE 12

### 4 CAPITAL FINANCING

5 Section 12.1 Borrowing Power. The commission may  
6 borrow money for any of the purposes of this compact; and  
7 may issue its negotiable bonds and other evidences of in-  
8 debtedness in respect thereto. All such bonds and evidences  
9 of indebtedness shall be payable solely out of the properties  
10 and revenues of the commission without recourse to taxation.  
11 The bonds and other obligations of the commission, except as  
12 may be otherwise provided in the indenture under which  
13 they were issued, shall be direct and general obligations of  
14 the commission and the full faith and credit of the commis-  
15 sion are hereby pledged for the prompt payment of the debt  
16 service thereon and for the fulfillment of all other undertak-  
17 ings of the commission assumed by it to or for the benefit  
18 of the holders thereof.

19 12.2 Funds and Expenses. The purposes of this com-  
20 pact shall include without limitation thereto all costs of any  
21 project or facility or any part thereof, including interest dur-  
22 ing a period of construction and a reasonable time thereafter  
23 and any incidental expenses (legal, engineering, fiscal, finan-  
24 cial consultant and other expenses) connected with issuing  
25 and disposing of the bonds; all amounts required for the

1 creation of an operating fund, construction fund, reserve  
2 fund, sinking fund, or other special fund; all other expenses  
3 connected with the planning, design, acquisition, construc-  
4 tion, completion, improvement or reconstruction of any  
5 facility or any part thereof; and reimbursement of advances  
6 by the commission or by others for such purposes and for  
7 working capital.

8       12.3 Credit Excluded; Officers, State and Municipal.

9 The commission shall have no power to pledge the credit of  
10 any signatory party, or of any county or municipality, or  
11 to impose any obligation for payment of the bonds upon any  
12 signatory party or any county or municipality. Neither  
13 the commissioners nor any person executing the bonds  
14 shall be liable personally on the bonds of the commission  
15 or be subject to any personal liability or accountability by  
16 reason of the issuance thereof.

17       12.4 Funding and Refunding. Whenever the commis-  
18 sion deems it expedient, it may fund and refund its bonds  
19 and other obligations whether or not such bonds and obliga-  
20 tions have matured. It may provide for the issuance, sale  
21 or exchange of refunding bonds for the purpose of redeem-  
22 ing or retiring any bonds (including the payment of any  
23 premium, duplicate interest or cash adjustment required in  
24 connection therewith) issued by the commission or issued  
25 by any other issuing body, the proceeds of the sale of which

1 have been applied to any facility acquired by the commission  
2 or which are payable out of the revenues of any facility  
3 acquired by the commission. Bonds may be issued partly  
4 to refund bonds and other obligations then outstanding, and  
5 partly for any other purpose of the commission. All pro-  
6 visions of this compact applicable to the issuance of bonds  
7 are applicable to refunding bonds and to the issuance, sale or  
8 exchange thereof.

9       12.5 Bonds; Authorization Generally. Bonds and  
10 other indebtedness of the commission shall be authorized by  
11 resolution of the commission. The validity of the authoriza-  
12 tion and issuance of any bonds by the commission shall not  
13 be dependent upon nor affected in any way by: (i) the  
14 disposition of bond proceeds by the commission or by con-  
15 tract, commitment or action taken with respect to such pro-  
16 ceeds; or (ii) the failure to complete any part of the project  
17 for which bonds are authorized to be issued. The commis-  
18 sion may issue bonds in one or more series and may provide  
19 for one or more consolidated bond issues, in such principal  
20 amounts and with such terms and provisions as the commis-  
21 sion may deem necessary. The bonds may be secured by  
22 a pledge of all or any part of the property, revenues and  
23 franchises under its control. Bonds may be issued by the  
24 commission in such amount, with such maturities and in



1 such denominations and form or forms, whether coupon or  
2 registered, as to both principal and interest, as may be de-  
3 termined by the commission. The commission may provide  
4 for redemption of bonds prior to maturity on such notice  
5 and at such time or times and with such redemption pro-  
6 visions, including premiums, as the commission may  
7 determine.

#### 8 12.6 Bonds; Resolutions and Indentures Generally.

9 The commission may determine and enter into indentures  
10 providing for the principal amount, date or dates, maturities,  
11 interest rate, denominations, form, registration, transfer,  
12 interchange and other provisions of the bonds and coupons  
13 and the terms and conditions upon which the same shall be  
14 executed, issued, secured, sold, paid, redeemed, funded and  
15 refunded. The resolution of the commission authorizing any  
16 bond or any indenture so authorized under which the bonds  
17 are issued may include all such covenants and other pro-  
18 visions other than any restriction on the regulatory powers  
19 vested in the commission by this compact as the commission  
20 may deem necessary or desirable for the issue, payment,  
21 security, protection or marketing of the bonds, including  
22 without limitation covenants and other provisions as to the  
23 rates or amounts of fees, rents and other charges to be  
24 charged or made for use of the facilities; the use, pledge,  
25 custody, securing, application and disposition of such rev-

1 enues, of the proceeds of the bonds, and of any other moneys  
2 of the commission; the operation, maintenance, repair and  
3 reconstruction of the facilities and the amounts which may be  
4 expended therefor; the sale, lease or other disposition of the  
5 facilities; the insuring of the facilities and of the revenues  
6 derived therefrom; the construction or other acquisition of  
7 other facilities; the issuance of additional bonds or other in-  
8 debtedness; the rights of the bondholders and of any trustee  
9 for the bondholders upon default by the commission or other-  
10 wise; and the modification of the provisions of the indenture  
11 and of the bonds. Reference on the face of the bonds to such  
12 resolution or indenture by its date of adoption or the ap-  
13 parent date on the face thereof is sufficient to incorporate all  
14 of the provisions thereof and of this compact into the body  
15 of the bonds and their appurtenant coupons. Each taker  
16 and subsequent holder of the bonds or coupons, whether the  
17 coupons are attached to or detached from the bonds, has re-  
18 course to all of the provisions of the indenture and of this  
19 compact and is bound thereby.

20 12.7 Maximum Maturity. No bond or its terms shall  
21 mature in more than fifty years from its own date and in the  
22 event any authorized issue is divided into two or more series  
23 or divisions, the maximum maturity date herein authorized  
24 shall be calculated from the date on the face of each bond

1 separately, irrespective of the fact that different dates may be  
2 prescribed for the bonds of each separate series or division of  
3 any authorized issue.

4 12.8 Tax Exemption. All bonds issued by the com-  
5 mission under the provisions of this compact and the interest  
6 thereof shall at all times be free and exempt from all taxation  
7 by or under authority of any of the signatory parties, except  
8 for transfer, inheritance and estate taxes.

9 12.9 Interest. Bonds shall bear interest at a rate of  
10 not to exceed six percent per annum, payable annually or  
11 semi-annually.

12 12.10 Place of Payment. The commission may pro-  
13 vide for the payment of the principal and interest of bonds  
14 at any place or places within or without the signatory states,  
15 and in any specified lawful coin or currency of the United  
16 States of America.

17 12.11 Execution. The commission may provide for  
18 the execution and authentication of bonds by the manual,  
19 lithographed or printed facsimile signature of officers of the  
20 commission, and by additional authentication by a trustee or  
21 fiscal agent appointed by the commission. If any of the  
22 officers whose signatures or counter signatures appear upon  
23 the bonds or coupons cease to be officers before the delivery  
24 of the bonds or coupons, their signatures or counter signa-  
25 tures are nevertheless valid and of the same force and effect



1 as if the officers had remained in office until the delivery of  
2 the bonds and coupons.

3 12.12 Holding Own Bonds. The commission shall  
4 have power out of any funds available therefor to purchase  
5 its bonds and may hold, cancel or resell such bonds.

6 12.13 Sale. The commission may fix terms and con-  
7 ditions for the sale or other disposition of any authorized  
8 issue of bonds. The commission may sell bonds at less than  
9 their par or face value but no issue of bonds may be sold at  
10 an aggregate price below the par or face value thereof if  
11 such sale would result in a net interest cost to the commis-  
12 sion calculated upon the entire issue so sold of more than  
13 six percent per annum payable semi-annually, according to  
14 standard tables of bond values. All bonds issued and sold for  
15 cash pursuant to this act shall be sold on sealed proposals to  
16 the highest bidder. Prior to such sale, the commission shall  
17 advertise for bids by publication of a notice of sale not less  
18 than ten days prior to the date of sale, at least once in a  
19 newspaper of general circulation printed and published in  
20 New York City carrying municipal bond notices and de-  
21 voted primarily to financial news. The commission may  
22 reject any and all bids submitted and may thereafter sell the  
23 bonds so advertised for sale at private sale to any financially  
24 responsible bidder under such terms and conditions as it  
25 deems most advantageous to the public interest, but the bonds

1 shall not be sold at a net interest cost calculated upon the  
2 entire issue so advertised, greater than the lowest bid which  
3 was rejected. In the event the commission desires to issue  
4 its bonds in exchange for an existing facility or portion  
5 thereof, or in exchange for bonds secured by the revenues of  
6 an existing facility, it may exchange such bonds for the  
7 existing facility or portion thereof or for the bonds so se-  
8 cured, plus an additional amount of cash, without advertising  
9 such bonds for sale.

10       12.14 Negotiability. All bonds issued under the pro-  
11 visions of this compact are negotiable instruments, except  
12 when registered in the name of a registered owner.

13       12.15 Legal Investments. Bonds of the commission  
14 shall be legal investments for savings banks, fiduciaries and  
15 public funds in each of the signatory states.

16       12.16 Validation Proceedings. Prior to the issuance of  
17 any bonds, the commission may institute a special proceeding  
18 to determine the legality of proceedings to issue the bonds  
19 and their validity under the laws of any of the signatory  
20 parties. Such proceeding shall be instituted and prosecuted  
21 in rem and the judgment rendered therein shall be conclusive  
22 against all persons whomsoever and against each of the  
23 signatory parties.

24       12.17 Recording. No indenture need be recorded or  
25 filed in any public office, other than the office of the com-

1 mission. The pledge of revenues provided in any indenture  
2 shall take effect forthwith as provided therein and irrespec-  
3 tive of the date of receipt of such revenues by the commission  
4 or the indenture trustee. Such pledge shall be effective as  
5 provided in the indenture without physical delivery of the  
6 revenues to the commission or to the indenture trustee.

7 12.18 Pledged Revenues. Bond redemption and  
8 interest payments shall, to the extent provided in the resolu-  
9 tion or indenture, constitute a first, direct and exclusive  
10 charge and lien on all such rates, rents, tolls, fees and charges  
11 and other revenues and interest thereon received from the  
12 use and operation of the facility, and on any sinking or  
13 other funds created therefrom. All such rates, rents, tolls,  
14 fees, charges and other revenues, together with interest  
15 thereon, shall constitute a trust fund for the security and pay-  
16 ment of such bonds and except as and to the extent provided  
17 in the indenture with respect to the payment therefrom  
18 of expenses for other purposes including administration,  
19 operation, maintenance, improvements or extensions of the  
20 facilities or other purposes shall not be used or pledged for  
21 any other purpose so long as such bonds, or any of them,  
22 are outstanding and unpaid.

23 12.19 Remedies. The holder of any bond may for the  
24 equal benefit and protection of all holders of bonds similarly  
25 situated: (a) by mandamus or other appropriate proceed-



1 ings require and compel the performance of any of the duties  
2 imposed upon the commission or assumed by it, its officers,  
3 agents or employees under the provisions of any indenture,  
4 in connection with the acquisition, construction, operation,  
5 maintenance, repair, reconstruction or insurance of the fa-  
6 cilities, or in connection with the collection, deposit, invest-  
7 ment, application and disbursement of the rates, rents, tolls,  
8 fees, charges and other revenues derived from the operation  
9 and use of the facilities, or in connection with the deposit, in-  
10 vestment and disbursement of the proceeds received from  
11 the sale of bonds; or (b) by action or suit in a court of  
12 competent jurisdiction of any signatory party require the  
13 commission to account as if it were the trustee of an express  
14 trust, or enjoin any acts or things which may be unlawful  
15 or in violation of the rights of the holders of the bonds. The  
16 enumeration of such rights and remedies does not, however,  
17 exclude the exercise or prosecution of any other rights or  
18 remedies available to the holders of bonds.

19 12.20 Capital Financing by Signatory Parties; Guar-  
20 antees.

21 (a) The signatory parties will provide such capital funds  
22 required for projects of the commission as may be authorized  
23 by their respective statutes in accordance with a cost sharing  
24 plan prepared pursuant to Article 11 of this compact; but  
25 nothing in this section shall be deemed to impose any man-

1   datory obligation on any of the signatory parties other than  
2   such obligations as may be assumed by a signatory party in  
3   connection with a specific project or facility.

4       (b) Bonds of the commission, notwithstanding any  
5   other provision of this compact, may be executed and de-  
6   livered to any duly authorized agency of any of the signatory  
7   parties without public offering and may be sold and resold  
8   with or without the guarantee of such signatory party, sub-  
9   ject to and in accordance with the constitutions of the re-  
10   spective signatory parties.

11       (c) The commission may receive and accept, and the  
12   signatory parties may make, loans, grants, appropriations,  
13   advances and payments of reimbursable or non-reimbursable  
14   funds or property in any form for the capital or operating  
15   purposes of the commission.

## 16                                   ARTICLE 13

### 17                                   PLAN, PROGRAM AND BUDGETS

18       Section 13.1 Comprehensive Plan. The commission  
19   shall develop and adopt, and may from time to time review  
20   and revise, a comprehensive plan for the immediate and long  
21   range development and use of the water resources of the ba-  
22   sin. The plan shall include all public and private projects  
23   and facilities which are required, in the judgment of the  
24   commission, for the optimum planning, development, con-  
25   servation, utilization, management and control of the water

1 resources of the basin to meet present and future needs; pro-  
2 vided that the plan shall include any projects required to con-  
3 form with any present or future decree or judgment of any  
4 court of competent jurisdiction. The commission may adopt  
5 a comprehensive plan or any revision thereof in such part  
6 or parts as it may deem appropriate, provided that before the  
7 adoption of the plan or any part or revision thereof the com-  
8 mission shall consult with water users and interested public  
9 bodies and public utilities and shall consider and give due  
10 regard to the findings and recommendations of the various  
11 agencies of the signatory parties and their political subdivi-  
12 sions. The commission shall conduct public hearings with  
13 respect to the comprehensive plan prior to the adoption of the  
14 plan or any part or revision thereof.

15 13.2 Water Resources Program. The commission  
16 shall annually adopt a water resources program, based upon  
17 the comprehensive plan, consisting of the projects and facili-  
18 ties which the commission proposes to be undertaken by the  
19 commission and by other authorized governmental and  
20 private agencies, organizations and persons during the en-  
21 suing six years or such other reasonably foreseeable period as  
22 the commission may determine. The water resources pro-  
23 gram shall include a systematic presentation of:

24 (1) the quantity and quality of water resources needs for  
25 such period;



(2) the existing and proposed projects and facilities required to satisfy such needs, including all public and private projects to be anticipated;

(3) a separate statement of the projects proposed to be undertaken by the commission during such period.

### 13.3 Annual Current Expense and Capital Budgets.

(a) The commission shall annually adopt a capital budget including all capital projects it proposes to undertake or continue during the budget period containing a statement of the estimated cost of each project and the method of financing thereof.

(b) The commission shall annually adopt a current expense budget for each fiscal year. Such budget shall include the commission's estimated expenses for administration, operation, maintenance and repairs, including a separate statement thereof for each project, together with its cost allocation. The total of such expenses shall be balanced by the commission's estimated revenues from all sources, including the cost allocations undertaken by any of the signatory parties in connection with any project. Following the adoption of the annual current expense budget by the commission, the executive director of the commission shall:

(1) certify to the respective signatory parties the amounts due in accordance with existing cost sharing established for each project; and

(2) transmit certified copies of such budget to the principal budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures. The amount required to balance the current expense budget in addition to the aggregate amount of item (1) above and all other revenues available to the commission shall be apportioned equitably among the signatory parties by unanimous vote of the commission, and the amount of such apportionment to each signatory party shall be certified together with the budget.

(c) The respective signatory parties covenant and agree to include the amounts so apportioned for the support of the current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the commission in quarterly installments during its fiscal year, provided that the commission may draw upon its working capital to finance its current expense budget pending remittances by the signatory parties.

## ARTICLE 14

## GENERAL PROVISIONS

23       Section 14.1   Auxiliary Powers of Commission; Func-  
24   tions of Commissioners.

1       (a) The commission, for the purposes of this compact,  
2 may:

3       (1) Adopt and use a corporate seal, enter into contracts,  
4 sue and be sued in all courts of competent jurisdiction;

5       (2) Receive and accept such payments, appropriations,  
6 grants, gifts, loans, advances and other funds, properties and  
7 services as may be transferred or made available to it by any  
8 signatory party or by any other public or private corporation  
9 or individual, and enter into agreements to make reimburse-  
10 ment for all or part thereof;

11       (3) Provide for, acquire and adopt detailed engineering,  
12 administrative, financial and operating plans and specifica-  
13 tions to effectuate, maintain or develop any facility or  
14 project;

15       (4) Control and regulate the use of facilities owned or  
16 operated by the commission;

17       (5) Acquire, own, operate, maintain, control, sell and  
18 convey real and personal property and any interest therein  
19 by contract, purchase, lease, license, mortgage or otherwise  
20 as it may deem necessary for any project or facility, includ-  
21 ing any and all appurtenances thereto necessary, useful or  
22 convenient for such ownership, operation, control, mainte-  
23 nance or conveyance;



1       (6) Have and exercise all corporate powers essential  
2 to the declared objects and purposes of the commission.

3       (b) The commissioners, subject to the provisions of this  
4 compact, shall:

5       (1) Serve as the governing body of the commission,  
6 and exercise and discharge its powers and duties except  
7 as otherwise provided by or pursuant to this compact;

8       (2) Determine the character of and the necessity for its  
9 obligations and expenditures and the manner in which they  
10 shall be incurred, allowed, and paid subject to any provi-  
11 sions of law specifically applicable to agencies or instru-  
12 mentalities created by compact;

13       (3) Provide for the internal organization and administra-  
14 tion of the commission;

15       (4) Appoint the principal officers of the commission  
16 and delegate to and allocate among them administrative  
17 functions, powers and duties;

18       (5) Create and abolish offices, employments and posi-  
19 tions as it deems necessary for the purposes of the commis-  
20 sion, and subject to the provisions of this article, fix and  
21 provide for the qualification, appointment, removal, term,  
22 tenure, compensation, pension and retirement rights of its  
23 officers and employees;

24       (6) Let and execute contracts to carry out the powers  
25 of the commission.

1       14.2 Regulations; Enforcement. The commission  
2 may:

3       (a) Make and enforce reasonable rules and regulations  
4 for the effectuation, application and enforcement of this com-  
5 pact; and it may adopt and enforce practices and schedules  
6 for or in connection with the use, maintenance and admin-  
7 istration of projects and facilities it may own or operate and  
8 any product or service rendered thereby; provided that any  
9 rule or regulation, other than one which deals solely with  
10 the internal management of the commission, shall be adopted  
11 only after public hearing and shall not be effective unless  
12 and until filed in accordance with the law of the respective  
13 signatory parties applicable to administrative rules and reg-  
14 ulations generally; and

15       (b) Designate any officer, agent or employee of the  
16 commission to be an investigator or watchman and such  
17 person shall be vested with the powers of a peace officer of  
18 the state in which he is duly assigned to perform his duties.

19       14.3 Tax Exemption. The commission, its property,  
20 functions, and activities shall be exempt from taxation by or  
21 under the authority of any of the signatory parties or any  
22 political subdivision thereof; provided that in lieu of prop-  
23 erty taxes the commission shall, as to specific projects, make  
24 payments to local taxing districts in annual amounts which  
25 shall equal the taxes lawfully assessed upon property for the

1 tax year next prior to its acquisition by the commission for  
2 a period of ten years. The nature and amount of such pay-  
3 ments shall be reviewed by the commission at the end of ten  
4 years, and from time to time thereafter, upon reasonable  
5 notice and opportunity to be heard to the affected taxing  
6 district, and the payments may be thereupon terminated or  
7 continued in such reasonable amount as may be necessary  
8 or desirable to take into account hardships incurred and bene-  
9 fits received by the taxing jurisdiction which are attributable  
10 to the project.

11 14.4 Meetings; Public Hearings; Records, Minutes.

12 (a) All meetings of the commission shall be open to  
13 the public.

14 (b) The commission shall conduct at least one public  
15 hearing prior to the adoption of the comprehensive plan,  
16 water resources program, annual capital and current expense  
17 budgets, the letting of any contract for the sale or other dis-  
18 position by the commission of hydroelectric energy or water  
19 resources to any person, corporation or entity, and in all  
20 other cases wherein this compact requires a public hearing.  
21 Such hearing shall be held upon at least ten days public  
22 notice given by posting at the offices of the commission. The  
23 commission shall also provide forthwith for distribution of  
24 such notice to the press and by the mailing of a copy thereof  
25 to any person who shall request such notices.



1       (c) The minutes of the commission shall be a public  
2 record open to inspection at its offices during regular business  
3 hours.

4       14.5 Officers Generally.

5       (a) The officers of the commission shall consist of an  
6 executive director and such additional officers, deputies and  
7 assistants as the commission may determine. The executive  
8 director shall be appointed and may be removed by the af-  
9 firmative vote of a majority of the full membership of the  
10 commission. All other officers and employees shall be ap-  
11 pointed by the executive director under such rules of pro-  
12 cedure as the commission may determine.

13       (b) In the appointment and promotion of officers and  
14 employees for the commission, no political, racial, religious  
15 or residence test or qualification shall be permitted or given  
16 consideration, but all such appointments and promotions  
17 shall be solely on the basis of merit and fitness. Any officer  
18 or employee of the commission who is found by the com-  
19 mission to be guilty of a violation of this section shall be  
20 removed from office by the commission.

21       14.6 Oath of Office. An oath of office in such form  
22 as the commission shall prescribe shall be taken, subscribed  
23 and filed with the commission by the executive director and  
24 by each officer appointed by him not later than fifteen days  
25 after the appointment.

1       14.7 Bond. Each officer shall give such bond and in  
2 such form and amount as the commission may require for  
3 which the commission may pay the premium.

4       14.8 Prohibited Activities.

5       (a) No commissioner, officer or employee shall:

6       (1) be financially interested, either directly or indi-  
7 rectly, in any contract, sale, purchase, lease or transfer of  
8 real or personal property to which the commission is a party;

9       (2) solicit or accept money or any other thing of value  
10 in addition to the compensation or expenses paid him by the  
11 commission for services performed within the scope of his  
12 official duties;

13       (3) offer money or any thing of value for or in considera-  
14 tion of obtaining an appointment, promotion or privilege  
15 in his employment with the commission.

16       (b) Any officer or employee who shall willfully violate  
17 any of the provisions of this section shall forfeit his office or  
18 employment.

19       (c) Any contract or agreement knowingly made in  
20 contravention of this section is void.

21       (d) Officers and employees of the commission shall be  
22 subject in addition to the provisions of this section to such  
23 criminal and civil sanctions for misconduct in office as may

1 be imposed by federal law and the law of the signatory state  
2 in which such misconduct occurs.

3 14.9 Purchasing. Contracts for the construction, re-  
4 construction or improvement of any facility when the ex-  
5 penditure required exceeds ten thousand dollars and contracts  
6 for the purchase of services, supplies, equipment and mate-  
7 rials when the expenditure required exceeds two thousand  
8 five hundred dollars shall be advertised and let upon sealed  
9 bids to the lowest responsible bidder. Notice requesting such  
10 bids shall be published in a manner reasonably likely to at-  
11 tract prospective bidders, which publication shall be made  
12 at least ten days before bids are received and in at least  
13 two newspapers of general circulation in the basin. The  
14 commission may reject any and all bids and readvertise in  
15 its discretion. If after rejecting bids the commission deter-  
16 mines and resolves that in its opinion the supplies, equip-  
17 ment and materials may be purchased at a lower price in the  
18 open market, the commission may give each responsible  
19 bidder an opportunity to negotiate a price and may proceed  
20 to purchase the supplies, equipment and materials in the open  
21 market at a negotiated price which is lower than the lowest  
22 rejected bid of a responsible bidder, without further ob-  
23 servance of the provisions requiring bids or notice. The com-



1 mission shall adopt rules and regulations to provide for pur-  
2 chasing from the lowest responsible bidder when sealed  
3 bids, notice and publication are not required by this section.  
4 The commission may suspend and waive the provisions of  
5 this section requiring competitive bids whenever:

6 (1) the purchase is to be made from or the contract to be  
7 made with the federal or any state government or any agency  
8 or political subdivision thereof or pursuant to any open end  
9 bulk purchase contract of any of them;

10 (2) the public exigency requires the immediate delivery  
11 of the articles or performance of the service;

12 (3) only one source of supply is available;

13 (4) the equipment to be purchased is of a technical na-  
14 ture and the procurement thereof without advertising is nec-  
15 essary in order to assure standardization of equipment and  
16 interchangeability of parts in the public interest; or

17 (5) services are to be provided of a specialized or pro-  
18 fessional nature.

19 14.10 Insurance. The commission may self-insure  
20 or purchase insurance and pay the premiums therefor against  
21 loss or damage to any of its properties; against liability for  
22 injury to persons or property; and against loss of revenue  
23 from any cause whatsoever. Such insurance coverage shall

1 be in such form and amount as the commission may deter-  
2 mine, subject to the requirements of any agreement arising  
3 out of the issuance of bonds by the commission.

4 14.11 Annual Independent Audit.

5 (a) As soon as practical after the closing of the fiscal  
6 year, an audit shall be made of the financial accounts of  
7 the commission. The audit shall be made by qualified certi-  
8 fied public accountants selected by the commission, who have  
9 no personal interest direct or indirect in the financial affairs  
10 of the commission or any of its officers or employees. The  
11 report of audit shall be prepared in accordance with accepted  
12 accounting practices and shall be filed with the chairman and  
13 such other officers as the commission shall direct. Copies  
14 of the report shall be distributed to each commissioner and  
15 shall be made available for public distribution.

16 (b) Each signatory party by its duly authorized officers  
17 shall be entitled to examine and audit at any time all of the  
18 books, documents, records, files and accounts and all other  
19 papers, things or property of the commission. The repre-  
20 sentatives of the signatory parties shall have access to all  
21 books, documents, records, accounts, reports, files and all  
22 other papers, things or property belonging to or in use by  
23 the commission and necessary to facilitate the audit and

1 they shall be afforded full facilities for verifying transactions  
2 with the balances or securities held by depositories, fiscal  
3 agents and custodians.

4 (c) The financial transactions of the commission shall  
5 be subject to audit by the general accounting office in ac-  
6 cordance with the principles and procedures applicable to  
7 commercial corporate transactions and under such rules and  
8 regulations as may be prescribed by the comptroller general  
9 of the United States. The audit shall be conducted at the  
10 place or places where the accounts of the commission are  
11 kept.

12 (d) Any officer or employee who shall refuse to give  
13 all required assistance and information to the accountants se-  
14 lected by the commission or to the authorized officers of any  
15 signatory party or who shall refuse to submit to them for  
16 examination such books, documents, records, files, accounts,  
17 papers, things or property as may be requested shall forfeit  
18 his office.

19 14.12 Reports. The commission shall make and publish  
20 an annual report to the legislative bodies of the signatory  
21 parties and to the public reporting on its programs, opera-  
22 tions and finances. It may also prepare, publish and dis-  
23 tribute such other public reports and informational materials  
24 as it may deem necessary or desirable.



1        14.13   Grants, Loans or Payments by States or Politi-  
2   cal Subdivisions.

3        (a)   Any or all of the signatory parties or any political  
4   subdivision thereof may:

5            (1)   Appropriate to the commission such funds as may  
6   be necessary to pay preliminary expenses such as the ex-  
7   penses incurred in the making of borings, and other studies  
8   of subsurface conditions, in the preparation of contracts for  
9   the sale of water and in the preparation of detailed plans  
10   and estimates required for the financing of a project;

11            (2)   Advance to the commission, either as grants or  
12   loans, such funds as may be necessary or convenient to  
13   finance the operation and management of or construction by  
14   the commission of any facility or project;

15            (3)   Make payments to the commission for benefits  
16   received or to be received from the operation of any of  
17   the projects or facilities of the commission.

18            (b)   Any funds which may be loaned to the commission  
19   either by a signatory party or a political subdivision thereof  
20   shall be repaid by the commission through the issuance  
21   of bonds or out of other income of the commission, such  
22   repayment to be made within such period and upon such  
23   terms as may be agreed upon between the commission and  
24   the signatory party or political subdivision making the loan.

1        14.14    Condemnation Proceedings.

2        (a)    The commission shall have the power to acquire  
3    by condemnation the fee or any lesser interest in lands,  
4    lands lying under water, development rights in land, ripar-  
5    ian rights, water rights, waters and other real or personal  
6    property within the basin for any project or facility author-  
7    ized pursuant to this compact. This grant of power of  
8    eminent domain includes but is not limited to the power to  
9    condemn for the purposes of this compact any property  
10   already devoted to a public use, by whomsoever owned or  
11   held, other than property of a signatory party and any  
12   property held, constructed, operated or maintained in con-  
13   nection with a diversion authorized by a United States  
14   Supreme Court decree. Any condemnation of any property  
15   or franchises owned or used by a municipal or privately  
16   owned public utility, unless the affected public utility facility  
17   is to be relocated or replaced, shall be subject to the au-  
18   thority of such state board, commission or other body as  
19   may have regulatory jurisdiction over such public utility.

20        (b)    Such power of condemnation shall be exercised  
21   in accordance with the provisions of any federal law appli-  
22   cable to the commission; provided that if there is no such  
23   applicable federal law, condemnation proceedings shall be  
24   in accordance with the provisions of such general state con-

1 demnation law as may be in force in the signatory state in  
2 which the property is located.

3 (c) Any award or compensation for the taking of  
4 property pursuant to this article shall be paid by the com-  
5 mission, and none of the signatory parties nor any other  
6 agency, instrumentality or political subdivision thereof shall  
7 be liable for such award or compensation.

8 14.15 Conveyance of Lands and Relocation of Public  
9 Facilities.

10 (a) The respective officers, agencies, departments, com-  
11 missions or bodies having jurisdiction and control over real  
12 and personal property owned by the signatory parties are  
13 authorized and empowered to transfer and convey in accord-  
14 ance with the laws of the respective parties to the commis-  
15 sion any such property as may be necessary or convenient to  
16 the effectuation of the authorized purposes of the commission.

17 (b) Each political subdivision of each of the signatory  
18 parties is authorized and empowered, notwithstanding any  
19 contrary provision of law, to grant and convey to the com-  
20 mission, upon the commission's request, any real property  
21 or any interest therein owned by such political subdivision in-  
22 cluding lands lying under water and lands already devoted to  
23 public use which may be necessary or convenient to the ef-  
24 fectuation of the authorized purposes of the commission.



1       (c) Any highway, public utility or other public facility  
2 which will be dislocated by reason of a project deemed neces-  
3 sary by the commission to effectuate the authorized purposes  
4 of this compact shall be relocated and the cost thereof shall  
5 be paid in accordance with the law of the state in which the  
6 facility is located; provided that the cost of such relocation  
7 payable by the commission shall not in any event exceed the  
8 expenditure required to serve the public convenience and  
9 necessity.

10       14.16 Rights of Way. Permission is hereby granted  
11 to the commission to locate, construct and maintain any  
12 aqueducts, lines, pipes, conduits and auxiliary facilities au-  
13 thorized to be acquired, constructed, owned, operated, or  
14 maintained by the commission in, over, under or across any  
15 streets and highways now or hereafter owned, opened or  
16 dedicated to or for public use, subject to such reasonable con-  
17 ditions as the highway department of the signatory party  
18 may require.

19       14.17 Penal Sanction. Any person, association, or  
20 corporation who violates or attempts or conspires to violate  
21 any provision of this compact or any rule, regulation or order  
22 of the commission duly made, promulgated or issued pur-  
23 suant to the compact in addition to any other remedy,  
24 penalty or consequence provided by law shall be punishable  
25 as may be provided by statute of any of the signatory parties

1 within which the offense is committed; provided that in the  
2 absence of such provision any such person, association or  
3 corporation shall be liable to a penalty of not less than \$50  
4 nor more than \$1,000 for each such offense to be fixed by  
5 the court which the commission may recover in its own name  
6 in any court of competent jurisdiction, and in a summary  
7 proceeding where available under the practice and procedure  
8 of such court. For the purposes of this section in the event  
9 of a continuing offense each day of such violation, attempt  
10 or conspiracy shall constitute a separate offense.

11 14.18 Tort Liability. The commission shall be re-  
12 sponsible for claims arising out of the negligent acts or  
13 omissions of its officers, agents and employees only to the  
14 extent and subject to the procedures prescribed by law gen-  
15 erally with respect to officers, agents and employees of the  
16 government of the United States.

17 14.19 Effect on Riparian Rights. Nothing contained  
18 in this compact shall be construed as affecting or intending  
19 to affect or in any way to interfere with the law of the respec-  
20 tive signatory parties relating to riparian rights.

21 14.20 Amendments and Supplements. Amendments  
22 and supplements to this compact to implement the purposes  
23 thereof may be adopted by legislative action of any of the  
24 signatory parties concurred in by all of the others.

25 14.21 Construction and Severability. The provisions

1 of this act and of agreements thereunder shall be severable  
2 and if any phrase, clause, sentence or provision of this com-  
3 pact or such agreement is declared to be unconstitutional  
4 or the applicability thereof to any signatory party, agency  
5 or person is held invalid, the constitutionality of the remain-  
6 der of this compact or such agreement and the applicability  
7 thereof to any other signatory party, agency, person or cir-  
8 cumstance shall not be affected thereby. It is the legis-  
9 lative intent that the provisions of this compact be reason-  
10 ably and liberally construed.

11       14.22 Effective Date; Execution. This compact shall  
12 become binding and effective thirty days after the enactment  
13 of concurring legislation by the federal government, the  
14 states of Delaware, New Jersey and New York, and the  
15 Commonwealth of Pennsylvania. The compact shall be  
16 signed and sealed in six duplicate original copies by the  
17 respective chief executives of the signatory parties. One  
18 such copy shall be filed with the Secretary of State of each  
19 of the signatory parties or in accordance with the laws of  
20 the state in which the filing is made, and one copy shall be  
21 filed and retained in the archives of the commission upon its  
22 organization. The signatures shall be affixed and attested  
23 under the following form:



IN WITNESS WHEREOF, and in evidence of the adoption and enactment into law of this compact by the Congress and legislatures, respectively, of the signatory parties, the President of the United States and the respective Governors do hereby, in accordance with authority conferred by law, sign this compact in six duplicate original copies, as attested by the respective secretaries of state, and have caused the seals of the United States and of the respective states to be hereunto affixed this                      day of                      , 19     .

## PART II

### ARTICLE 15

#### EFFECTUATION

~~15.1~~ Reservations. In the exercise of the powers reserved to the Congress, pursuant to Section ~~1.4~~ of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

~~(a)~~ That no provision of Section ~~3.7~~ of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the Basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the Compact;

1 or to impose any charges with respect to commercial naviga-  
2 tion within the Basin, jurisdiction over which is reserved to  
3 the Federal government: *Provided*, That this paragraph  
4 shall be applicable to the extent not inconsistent with Section  
5 1.4 of this Compact;

6 (b) That nothing contained in the Compact shall be  
7 deemed to restrict the executive powers of the President in  
8 the event of a national emergency;

9 (c) That, notwithstanding the provisions of Article 2,  
10 section 2.2 of the Compact, the member of the commission  
11 appointed by the President of the United States and his  
12 alternate shall serve at the pleasure of the President;

13 (d) That nothing contained in the Compact shall be  
14 construed as impairing or in any manner affecting the appli-  
15 cability to all Federal funds budgeted and appropriated for  
16 use by the commission, of such authority over budgetary and  
17 appropriation matters as the President and Congress may  
18 have with respect to agencies in the Executive Branch of the  
19 Federal Government;

20 (e) That nothing contained in the Compact shall be  
21 construed as exempting from federal taxation the interest  
22 on any bonds issued by the commission except to the same  
23 extent that interest on state bonds is or may continue to be  
24 free or exempt from federal taxation under applicable  
25 federal law;

1       ~~(f)~~ That the Congress reserves the power and right to  
2       revise or modify the terms, conditions and provisions under  
3       which the United States may remain a party to the Compact;

4       ~~(g)~~ That no provision of the compact shall be construed  
5       to relinquish the functions, powers or duties of the Congress  
6       of the United States over any matters committed to it by  
7       the Constitution of the United States;

8       ~~(h)~~ That notwithstanding the provisions of section 2  
9       of this Act, the commission shall be subject to the provi-  
10      sions of the Act of June 30, 1936, 49 Stat. 2036, as  
11      amended, ~~(U.S. Code, Title 41, secs. 35 through 45)~~,  
12      the Act of March 3, 1931, 46 Stat. 1494, as amended ~~(U.S.~~  
13      Code, Title 40, secs. 276a and 276a-1); and to the provi-  
14      sions of the regulations of the Secretary of Labor issued  
15      pursuant to the Act of June 13, 1934, 48 Stat. 948, as  
16      amended ~~(U.S. Code, Title 40, sec. 287c)~~;

17      ~~(i)~~ That the provisions of section 8.4 of Article 8  
18      of the Compact shall not be construed to apply to facili-  
19      ties operated pursuant to any other federal law;

20      ~~(j)~~ That, notwithstanding any other provision of this  
21      act, nothing contained in the Compact shall be construed as  
22      superseding or limiting the functions, under any other law,  
23      of the Surgeon General of the United States Public Health  
24      Service, or of the Public Health Service, or of any other  
25      officer or agency of the United States, relating to water



1 pollution; provided that the exercise of such functions shall  
 2 not limit the authority of the commission to control, prevent,  
 3 or abate water pollution;

4 ~~(k)~~ That all Acts and parts of Acts inconsistent with  
 5 any provision of this joint resolution are hereby amended  
 6 for the purpose of this joint resolution to the extent necessary  
 7 to carry out the provisions of this joint resolution: *Provided,*  
 8 *however,* That no act of the commission shall have the effect  
 9 of repealing, modifying or amending any federal law;

10 ~~(l)~~ That for purposes of the Act of June 25, 1948, 62  
 11 Stat. 982, as amended ~~(Title 28, U.S. Code, chapter 171,~~  
 12 ~~and sections 1346(b) and 240(b))~~ and the Act of March 3,  
 13 1887, 24 Stat. 505, as amended ~~(Title 28, U.S. Code, sec-~~  
 14 ~~tions 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411,~~  
 15 ~~2412, 2501),~~ and the Act of June 11, 1946, 60 Stat. 237, as  
 16 amended ~~(Title 5, U.S. Code, sections 1001 through 1011,~~  
 17 ~~Title 50 App. U.S. Code, section 1900),~~ the commission  
 18 shall not be considered a Federal agency;

19 ~~(m)~~ That the officers and employees of the commission  
 20 ~~(other than the United States member, alternate United~~  
 21 ~~States member, and advisors, and personnel employed by~~  
 22 ~~the United States member under direct Federal appropria-~~  
 23 ~~tion)~~ shall not be deemed to be, for any purpose, officers or

1 employees of the United States or to become entitled at any  
2 time by reason of employment by the commission to any  
3 compensation or benefit payable or made available by the  
4 United States solely and directly to its officers or employees;

5     ~~(n)~~ That neither the Compact nor this joint resolution  
6 shall be deemed to enlarge the authority of any Federal  
7 agency other than the commission to participate in or to  
8 provide funds for projects or activities in the Delaware River  
9 Basin;

10     ~~(o)~~ That the United States district courts shall have  
11 original jurisdiction of all cases or controversies arising under  
12 the Compact, and this Act and any case or controversy so  
13 arising initiated in a State Court shall be removable to the  
14 appropriate United States district court in the manner pro-  
15 vided by § 1446, Title 28, U.S.C. Nothing contained in  
16 the Compact or elsewhere in this Act shall be construed as  
17 a waiver by the United States of its immunity from suit;

18     ~~(p)~~ That the right to alter, amend, or repeal this joint  
19 resolution is hereby expressly reserved. The right is hereby  
20 reserved to the Congress or any of its standing committees  
21 to require the disclosure and furnishing of such information  
22 and data by the Delaware River Basin Compact Commis-

1 sion as is deemed appropriate by the Congress or any such  
2 committee;

3 ~~(q)~~ That the President is authorized to take such action  
4 as may be necessary and proper, in his discretion, to effectuate  
5 the Compact and the initial organization and operation of  
6 the commission thereunder;

7 ~~(r)~~ That the provisions of sections 2.4 and 2.7 of  
8 Article 2 of the Compact notwithstanding, the United States  
9 member, alternate United States member, and advisors there  
10 referred to may be paid compensation by the United States,  
11 such compensation to be fixed by the President at the  
12 rates which he shall deem to prevail in respect to comparable  
13 officers in the executive branch;

14 ~~(s)~~ That executive departments and other agencies  
15 of the executive branch of the Federal Government shall  
16 cooperate with and furnish appropriate assistance to the  
17 United States Member. Such assistance shall include the  
18 furnishing of services and facilities and may include the detailing  
19 of personnel to the United States Member. Appropriations  
20 are hereby authorized as necessary for the carrying  
21 out of the functions of the United States Member, including  
22 appropriations for the employment of personnel by the  
23 United States Member;



1       ~~(t)~~ That the commissioner appointed by the president  
 2 may, at intervals of not less than six years, suspend any  
 3 provision of the comprehensive plan which substantially  
 4 affects the administration of any statute of the United States,  
 5 and for the duration of such suspension the provision shall  
 6 not be applied under Sec. 3.8 or Sec. 11.1 of the compact  
 7 to any other federal department, agency or instrumentality.  
 8 Such suspension may be made effective by notice given at  
 9 a regular meeting of the commission. Reinstatement of a  
 10 suspended provision may be made effective at any time by  
 11 like notice; and

12       ~~(u)~~ That nothing contained in the Compact shall be  
 13 construed as in any manner impairing or affecting the licens-  
 14 ing and regulatory powers of any other officer, agency or  
 15 instrument of the United States: *Provided*, That any exercise  
 16 of such licensing or regulatory powers in the Delaware River  
 17 Basin shall not substantially conflict with any portion of the  
 18 comprehensive plan adopted pursuant to section 13.1 of the  
 19 compact, except as the comprehensive plan or any part  
 20 thereof may be suspended pursuant to paragraph "t" of this  
 21 section.

22       15.2 Effective Date: This Act shall take effect imme-  
 23 diately.

## PART II

## ARTICLE 15

## RESERVATIONS

15.1 In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

(a) Notwithstanding any provision of the Delaware River Basin Compact the Delaware River Basin Commission shall not undertake any project (as defined in such compact) beyond the planning stage until—

(1) such Commission has submitted to the Congress such complete plans and estimates for such project as may be necessary to make an engineering evaluation of such project, including—

(A) where the project will serve more than one purpose, an allocation of costs among the purposes served and an estimate of the ratio of benefits to costs for each such purpose,

(B) an apportionment of costs among the beneficiaries of the project, including the portion of the costs to be borne by the Federal Government and by State and local governments, and

(C) a proposal for financing the project, including

1           *the terms of any proposed bonds or other evidences of*  
2           *indebtedness to be used for such purpose; and*

3           *(2) such project has been authorized by Act of Congress.*

4       ~~(a)~~ (b) *No provision of Section 3.7 of the Compact shall*  
5 *be deemed to authorize the Commission to impose any charge*  
6 *for water withdrawals or diversions from the Basin if such*  
7 *withdrawals or diversions could lawfully have been made*  
8 *without charge on the effective date of the Compact; or to*  
9 *impose any charges with respect to commercial navigation*  
10 *within the Basin, jurisdiction over which is reserved to the*  
11 *Federal Government: Provided, That this paragraph shall*  
12 *be applicable to the extent not inconsistent with Section 1.4*  
13 *of this Compact.*

14       ~~(b)~~ (c) *Nothing contained in the Compact shall be*  
15 *deemed to restrict the executive powers of the President in the*  
16 *event of a national emergency.*

17       ~~(c)~~ (d) *Notwithstanding the provisions of Article 2, sec-*  
18 *tion 2.2 of the Compact, the member of the commission ap-*  
19 *pointed by the President of the United States and his alternate*  
20 *shall serve at the pleasure of the President.*

21       ~~(d)~~ (e) *Nothing contained in the Compact shall be con-*  
22 *strued as impairing or in any manner affecting the applica-*  
23 *bility to all Federal funds budgeted and appropriated for*  
24 *use by the Commission, of such authority over budgetary and*



1    *appropriation matters as the President and Congress may*  
2    *have with respect to agencies in the Executive Branch of the*  
3    *Federal Government.*

4        ~~(e)~~ (f) *Except to the same extent that State bonds are or*  
5    *may continue to be free or exempt from Federal taxation*  
6    *under the internal revenue laws of the United States, nothing*  
7    *contained in the Compact shall be construed as freeing or*  
8    *exempting from internal revenue taxation in any manner*  
9    *whatsoever any bonds issued by the Commission, their trans-*  
10   *fer, or the income therefrom (including any profits made on*  
11   *the sale thereon).*

12        ~~(f)~~ (g) *Nothing contained in the Compact shall be con-*  
13   *strued to obligate the United States legally or morally to pay*  
14   *the principal or interest on any bonds issued by the Delaware*  
15   *River Basin Commission.*

16        ~~(g)~~ (h) *Notwithstanding the provisions of section 11.5 or*  
17   *any other provision of the Compact, the furnishing of tech-*  
18   *nical services to the Commission by agencies of the executive*  
19   *branch of the Government of the United States is pledged*  
20   *only to the extent that the respective agencies shall from time*  
21   *to time agree thereto or to the extent that the President may*  
22   *from time to time direct such agencies to perform such serv-*  
23   *ices for the Commission. Nothing in the Compact shall be*  
24   *deemed to require the United States to furnish administrative*

1 services or facilities for carrying out functions of the Com-  
2 mission except to the extent that the President may direct.

3 ~~(h)~~ (i) All laborers and mechanics employed by contrac-  
4 tors or subcontractors in the construction, alteration or repair,  
5 including painting and decorating, of projects, buildings  
6 and works which are undertaken by the Commission or  
7 are financially assisted by it, shall be paid wages at rates  
8 not less than those prevailing on similar construction in the  
9 locality so determined by the Secretary of Labor in accord-  
10 ance with the Davis-Bacon Act, as amended (40 U.S.C.  
11 276a-276a-5), and every such employee shall receive com-  
12 pensation at a rate not less than one and one-half times his  
13 basic rate of pay for all hours worked in any workweek  
14 in excess of eight hours in any workday or forty hours in  
15 any workweek, as the case may be. A provision stating the  
16 minimum wages thus determined and the requirement that  
17 overtime be paid as above provided shall be set out in each  
18 project advertisement for bids and in each bid proposal form  
19 and shall be made a part of the contract covering the project.  
20 The Secretary of Labor shall have, with respect to the admin-  
21 istration and enforcement of the labor standards specified in  
22 this provision, the supervisory, investigatory and other au-  
23 thority and functions set forth in Reorganization Plan Num-  
24 bered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C.

1 133z-15), and section 2 of the Act of June 13, 1934, as  
 2 amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

3 ~~(i)~~ (j) Contracts for the manufacture or furnishing of  
 4 materials, supplies, articles and equipment with the Commis-  
 5 sion which are in excess of \$10,000 shall be subject to the pro-  
 6 visions of the Walsh-Healey Public Contracts Act (41  
 7 U.S.C. 35 et seq.)

8 ~~(j)~~ (k) Notwithstanding any other provision of this Act,  
 9 nothing contained in this Act or in the Compact shall be con-  
 10 strued as superseding or limiting the functions, under any  
 11 other law, of the Secretary of Health, Education, and Welfare  
 12 or of any other officer or agency of the United States, relating  
 13 to water pollution: Provided, That the exercise of such func-  
 14 tions shall not limit the authority of the Commission to control,  
 15 prevent, or abate water pollution.

16 ~~(k)~~ (l) The provisions of section 8.4 of Article 8 of the  
 17 Compact shall not be construed to apply to facilities operated  
 18 pursuant to any other Federal law.

19 ~~(l)~~ (m) For purposes of the Act of June 25, 1948, 62  
 20 Stat. 982, as amended (Title 28, U.S. Code, chapter 171, and  
 21 sections 1346(b) and 240(b) and the Act of March 3, 1887,  
 22 24 Stat. 505, as amended (Title 28, U.S. Code, sections  
 23 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412,  
 24 2501), and the Act of June 11, 1946, 60 Stat. 237, as  
 25 amended (Title 5, U.S. Code, sections 1001 and 1011,



1 *Title 50 App. U.S. Code, section 1900), the Commission*  
2 *shall not be considered a Federal agency.*

3 ~~(m)~~ (n) *The officers and employees of the Commission*  
4 *(other than the United States member, alternate United States*  
5 *member, and advisors, and personnel employed by the United*  
6 *States member under direct Federal appropriation) shall*  
7 *not be deemed to be, for any purpose, officers or employees of*  
8 *the United States or to become entitled at any time by rea-*  
9 *son of employment by the Commission to any compensation*  
10 *or benefit payable or made available by the United States*  
11 *solely and directly to its officers or employees.*

12 ~~(n)~~ (o) *Neither the Compact nor this Act shall be deemed*  
13 *to enlarge the authority of any Federal agency other than*  
14 *the Commission to participate in or to provide funds for*  
15 *projects or activities in the Delaware River Basin.*

16 ~~(o)~~ (p) *The United States district courts shall have origi-*  
17 *nal jurisdiction of all cases or controversies arising under the*  
18 *Compact, and this Act and any case or controversy so arising*  
19 *initiated in a State Court shall be removable to the appro-*  
20 *priate United States district court in the manner provided*  
21 *by § 1446, Title 28 U.S.C. Nothing contained in the Com-*  
22 *pact or elsewhere in this Act shall be construed as a waiver*  
23 *by the United States of its immunity from suit.*

24 ~~(p)~~ (q) *The right to alter, amend, or repeal this Act is*  
25 *hereby expressly reserved. The right is hereby reserved to the*

1 Congress or any of its standing committees to require the dis-  
2 closure and furnishing of such information and data by the  
3 Delaware River Basin Compact Commission as is deemed  
4 appropriate by the Congress or any such committee.

5 ~~(q)~~ (r) The provisions of section 2.4 and 2.6 of Article 2  
6 of the Compact notwithstanding, the member and alternate  
7 member appointed by the President and advisor there referred  
8 to may be paid compensation by the United States, such  
9 compensation to be fixed by the President at the rates which  
10 he shall deem to prevail in respect to comparable officers  
11 in the executive branch.

12 ~~(r)~~ (s) 1. Nothing contained in this Act or in the Com-  
13 pact shall impair or affect the constitutional authority of the  
14 United States or any of its powers, rights, functions, or  
15 jurisdiction under other existing or future legislation in  
16 and over the area or waters which are the subject of  
17 the Compact including projects of the Commission: Pro-  
18 vided, That whenever a comprehensive plan, or any part  
19 or revision thereof, has been adopted with the concurrence  
20 of the member appointed by the President, the exercise of  
21 any powers conferred by law on any officer, agency or  
22 instrumentality of the United States with regard to water  
23 and related land resources in the Delaware River Basin  
24 shall not substantially conflict with any such portion of  
25 such comprehensive plan and the provisions of Section 3.8

1 and Article 11 of the Compact shall be applicable to the  
 2 extent necessary to avoid such substantial conflict: Pro-  
 3 vided further, That whenever the President shall find and  
 4 determine that the national interest so requires, he may  
 5 suspend, modify or delete any provision of the comprehen-  
 6 sive plan to the extent that it affects the exercise of any  
 7 powers, rights, functions, or jurisdiction conferred by law  
 8 on any officer, agency or instrumentality of the United States  
 9 other than the Commission. Such action shall be taken by  
 10 executive order in which such finding and determination  
 11 shall be set forth.

12 2. For the purposes of paragraph 1 hereof, concurrence  
 13 by the member appointed by the President shall be presumed  
 14 unless within 60 days after notice to him of adoption of the  
 15 comprehensive plan, or any part or revision thereof, he shall  
 16 file with the Commission notice of his nonconcurrence. Each  
 17 concurrence of the member appointed by the President in the  
 18 adoption of the comprehensive plan or any part or revision  
 19 thereof may be withdrawn by notice filed with the Commission  
 20 at any time between the first and sixtieth day of the sixth  
 21 year after the initial adoption of the comprehensive plan  
 22 and of every sixth year thereafter.

23 ~~(s)~~ (t) In the event that any phrase, clause, sentence or  
 24 provision of Section 1.4 of Article 1 of the Compact, is de-  
 25 clared to be unconstitutional under the constitution of any



1 of the signatory parties, or the applicability thereof to any  
 2 signatory party, agency or person is held invalid by a court  
 3 of last resort of competent jurisdiction, the United States  
 4 shall cease to be a party to the Compact, except to the extent  
 5 that the President deems remaining a party necessary and  
 6 proper to protect the national interest, and shall cease to be  
 7 bound by the terms thereof.

8 ~~(t) In making sales or leases of hydroelectric power generated~~  
 9 ~~pursuant to Article 9 of the Compact, preference shall be given~~  
 10 ~~to public bodies and cooperatives so defined in section 3 of chapter~~  
 11 ~~720 of the Act of August 20, 1937, 50 Stat. 733 (Title 16, U.S.~~  
 12 ~~Code, section 832b).~~

13 (u) All Acts or parts of Acts inconsistent with the pro-  
 14 visions of this Act are hereby amended for the purpose of this  
 15 Act to the extent necessary to carry out the provisions of this  
 16 Act: Provided, however, That no act of the Commission shall  
 17 have the effect of repealing, modifying or amending any Fed-  
 18 eral law.

#### 19 EFFECTUATION

20 15.2 (a) The President is authorized to take such action  
 21 as may be necessary and proper, in his discretion, to effectu-  
 22 ate the Compact and the initial organization and operation  
 23 of the Commission thereunder.

24 (b) Executive departments and other agencies of the  
 25 executive branch of the Federal Government shall cooperate

1 *with and furnish appropriate assistance to the United States*  
2 *member. Such assistance shall include the furnishing of*  
3 *services and facilities and may include the detailing of per-*  
4 *sonnel to the United States member. Appropriations are*  
5 *hereby authorized as necessary for the carrying out of the*  
6 *functions of the United States member, including appropria-*  
7 *tions for the employment of personnel by the United States*  
8 *member.*

9       *15.3 Effective Date: This Act shall take effect immedi-*  
10 *ately.*

Passed the House of Representatives June 29, 1961.

Attest:

RALPH R. ROBERTS,

*Clerk.*

87<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. J. RES. 225

[Report No. 854]  
[Report No. 1032]

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## JOINT RESOLUTION

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To grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States, and for related purposes.

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JULY 5 (legislative day, JULY 3), 1961

Read twice and referred to the Committee on the Judiciary

AUGUST 31, 1961

Reported with an amendment

AUGUST 31, 1961

Referred to the Committee on Interior and Insular Affairs

SEPTEMBER 14, 1961

Reported with additional amendments







# Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF  
BUDGET AND FINANCE  
(For information only;  
should not be quoted  
or cited),

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HIGHLIGHTS: House passed supplemental appropriation bill. Senate passed foreign aid appropriation bill. House received conference report on Mexican farm labor bill. Rep. Landrum urged aid for poultry industry. Sen. Bennett criticized food distribution program. Senate passed Delaware River Basin compact bill. Sen. Talmadge introduced and discussed poultry bill. House agreed to conference report on Mexican farm labor bill. House concurred in Senate amendments to Delaware River Basin compact bill.

## SENATE - SEPT. 15

1. FOREIGN AID APPROPRIATION BILL, 1962. By a vote of 62 to 17, passed with amendments this bill, H. R. 9033 (pp. 18404-5, 18418-36, 18440, 18455-62). Conferees were appointed (p. 18461). Agreed to an amendment by Sen. Keating providing that in administering funds for the foreign aid program "great attention and consideration should be given to those nations which share the view of the United States on the world crisis (pp. 18419-22). Agreed to an amendment by Sen. Saltonstall providing that none of these funds (except for contributions to international organizations) shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource projects in foreign countries which is not based upon a computation of benefits and costs made in accordance with procedures of the Budget Bureau applicable to comparable U. S. projects (p. 18422). As passed the bill provides \$1,200 million for development loans, \$334 million for development grants, and \$40 million for the Peace Corps.



2. PEACE CORPS. Passed with amendment H. R. 7500, the Peace Corps bill, after substituting the language of similar bill, S. 2000. Conferees were appointed.  
p. 18477
3. RECLAMATION. The Interior and Insular Affairs Committee reported with amendments S. 2008, relating to the construction and operation of the Spokane Valley reclamation project (S. Rept. 1042). p. 18400  
Passed as reported S. 1060, to authorize the construction of the Oroville-Tonasket unit of the Okanogan-Similkameen division, Chief Joseph Dam project, Wash. pp. 18409-10
4. PUBLIC LANDS. Passed without amendment H. R. 6193, to authorize the Secretary of Agriculture to convey a tract of forest land in Wyoming to Fremont County. This bill will now be sent to the President. p. 18405  
Passed without amendment H. R. 3920, to authorize the exchange of a parcel of land at the Agricultural Research Center. This bill will now be sent to the President. p. 18405  
Passed without amendment H. R. 2280, to provide for the withdrawal of certain public lands 40 miles east of Fairbanks, Alaska, for use by the Department of the Army as a Nike range. This bill will now be sent to the President.  
p. 18407  
Passed without amendment H. R. 2281, to reserve for use by the Department of the Army at Fort Richardson, Alaska, certain public lands in the Campbell Creek area. This bill will now be sent to the President. p. 18407  
Passed over, at the request of Sen. Mansfield, H. R. 4682, to authorize the Secretary of Agriculture to sell and convey certain tracts of forest land in Iowa to the State. p. 18405
5. PERSONNEL. Passed without amendment H. R. 2555, to authorize pay to civilian employees of the U. S. in cases of emergency evacuations in overseas areas and to consolidate the law governing allotment and assignment of pay for such employees. This bill will now be sent to the President. pp. 18405-6  
Passed over, at the request of Sen. Mansfield, S. 188, the 30-year retirement bill. p. 18405
6. WATER RESOURCES. Passed with amendments H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin compact, after substituting the language of a similar bill, S. 856, as passed earlier. Further consideration of S. 856 was indefinitely postponed. pp. 18483-99
7. ATOMIC ENERGY. Receded from the Senate amendment to H. R. 7576, to authorize appropriations for the Atomic Energy Commission. This bill will now be sent to the President. p. 18471
8. EDUCATIONAL EXCHANGES. Agreed to the conference report on H. R. 8666, to provide for continuation of the educational and cultural exchange program. pp. 18503-4
9. VIRGIN ISLANDS. The Interior and Insular Affairs Committee reported with amendment H. R. 4750, to amend the Virgin Islands Corporation Act so as to increase the borrowing authority of the Corporation (S. Rept. 1065). p. 18522
10. PERSONNEL. As reported (see Digest 159), S. 1732, to increase the limitation on the number of supergrade and high-level scientific positions, includes provisions as follows:



qualifications required by this Act for such office".

(27) Section 10 is amended by adding at the end thereof the following new subsection:

(e) In the event that any person nominated for any office pursuant to this Act dies, resigns, or becomes unable to run, his successor shall be chosen pursuant to the rules of the duly authorized party committee: *Provided*, That such successor shall have the qualifications required by this Act for such office."

(28) Subsection (b) of section 11 is amended by striking "electors" and inserting in lieu thereof "voters".

(29) Subsection (b) of section 13 is amended by inserting after the words "a candidate for" the words "elector of President and Vice President".

(30) Subsection (d) of section 13 is amended by striking any national committeeman" and inserting in lieu thereof "any elector, national committeeman".

(31) Subsection (e) of section 13 is amended by striking from the first sentence thereof "the election" and inserting in lieu thereof "an election".

(32) Section 14 is amended (a) by striking from the first sentence thereof "if employed in the counting of votes in such elections" and inserting in lieu thereof "if employed in the counting of votes in any election held pursuant to this Act knowingly" and (b) by inserting the word "knowingly" immediately before the words "make any expenditure".

(33) The title is amended to read as follows: "An Act to regulate the election in the District of Columbia of electors of President and Vice President of the United States and of delegates representing the District of Columbia to national political conventions, and for other purposes."

SEC. 2. (a) The term "State" shall be deemed to include the District of Columbia and the term "executives of each State" shall be deemed to include the Board of Commissioners of the District of Columbia wherever such terms appear in chapter I of title 3, United States Code.

(b) For the purposes of the Federal Voting Assistance Act of 1955 (69 Stat. 584), the word "State" shall be deemed to include the District of Columbia.

SEC. 3. The second paragraph of section 7 of the District of Columbia Alcoholic Beverage Control Act, as amended (sec. 25-107, D.C. Code, 1951 ed.), is amended by inserting after the first sentence the following new sentence: "Notwithstanding any other provision of this Act, the Commissioners shall not authorize the sale by any licensee, other than the holder of a retailer's license, class E, of any beverages on the day of the presidential election in the District of Columbia during the hours when the polls are open, and any such sales are hereby prohibited."

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

#### REGIONAL AGENCY FOR CONTROL OF WATER AND NATURAL RESOURCES OF THE DELAWARE RIVER BASIN

Mr. BIBLE. Mr. President, I ask unanimous consent that the unfinished business be temporarily laid aside and that the Senate proceed to the consideration of Calendar No. 968, S. 856.

The PRESIDING OFFICER. The bill will be stated by title for the information of the Senate.

The CHIEF CLERK. A bill (S. 856) to create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Nevada?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Public Works, with an amendment, on page 68, after line 19, to strike out:

#### PART II

#### Article 15

#### Repealer

15.1 All Acts and parts of Acts inconsistent with any provision of this Act are hereby amended for the purposes of this Act to the extent necessary to carry out the provisions of this Act.

#### Effectuation by the President

15.2 The President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the Delaware River Basin Compact and the initial organization and operation of the commission thereunder.

#### Effective Date

15.3 This Act shall take effect immediately.

And, in lieu thereof, to insert:

#### PART II

#### Article 15

#### Reservations

15.1 In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

(a) Notwithstanding any provision of the Delaware River Basin Compact the Delaware River Basin Commission shall not undertake any project (as defined in such compact), other than a project for which State supplied funds only will be used, beyond the planning stage until—

(1) such Commission has submitted to the Congress such complete plans and estimates for such project as may be necessary to make an engineering evaluation of such project, including—

(A) where the project will serve more than one purpose, an allocation of costs among the purposes served and an estimate of the ratio of benefits to costs for each such purpose,

(B) an apportionment of costs among the beneficiaries of the project, including the portion of the costs to be borne by the Federal Government and by State and local governments, and

(C) a proposal for financing the project, including the terms of any proposed bonds or other evidences of indebtedness to be used for such purpose; and

(2) such project has been authorized by Act of Congress.

(b) No provision of Section 3.7 of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the Basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the Compact; or to im-

pose any charges with respect to commercial navigation within the Basin, jurisdiction over which is reserved to the Federal Government: *Provided*, That this paragraph shall be applicable to the extent not inconsistent with Section 1.4 of this Compact.

(c) Nothing contained in the Compact shall be deemed to restrict the executive powers of the President in the event of a national emergency.

(d) Notwithstanding the provisions of Article 2, section 2.2 of the Compact, the member of the commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President.

(e) Nothing contained in the Compact shall be construed as impairing or in any manner affecting the applicability to all Federal funds budgeted and appropriated for use by the Commission, or such authority over budgetary and appropriation matters as the President and Congress may have with respect to agencies in the Executive Branch of the Federal Government.

(f) Except to the same extent that State bonds are or may continue to be free or exempt from Federal taxation under the internal revenue laws of the United States, nothing contained in the Compact shall be construed as freeing or exempting from internal revenue taxation in any manner whatsoever any bonds issued by the Commission, their transfer, or the income therefrom (including any profits made on the sale thereon).

(g) Nothing contained in the Compact shall be construed to obligate the United States legally or morally to pay the principal or interest on any bonds issued by the Delaware River Basin Commission.

(h) Notwithstanding the provisions of section 11.5 or any other provision of the Compact, the furnishing of technical services to the Commission by agencies of the executive branch of the Government of the United States is pledged only to the extent that the respective agencies shall from time to time agree thereto or to the extent that the President may from time to time direct such agencies to perform such services for the Commission. Nothing in the Compact shall be deemed to require the United States to furnish administrative services or facilities for carrying out functions of the Commission except to the extent that the President may direct.

(i) All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are undertaken by the Commission or are financially assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the locality so determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in any workweek, as the case may be. A provision stating the minimum wages thus determined and the requirement that overtime be paid as above provided shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project. The Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards specified in this provision, the supervisory, investigatory, and other authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).



(j) Contracts for the manufacture or furnishing of materials, supplies, articles, and equipment with the Commission which are in excess of \$10,000 shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.).

(k) Notwithstanding any other provision of this Act, nothing contained in this Act or in the Compact shall be construed as superseding or limiting the functions, under any other law, of the Secretary of Health, Education, and Welfare or of any other officer or agency of the United States, relating to water pollution: *Provided*, That the exercise of such functions shall not limit the authority of the Commission to control, prevent, or abate water pollution.

(l) The provisions of section 8.4 of Article 8 of the Compact shall not be construed to apply to facilities operated pursuant to any other Federal law.

(m) For purposes of the Act of June 25, 1948, 62 Stat. 982, as amended (Title 28, U.S. Code, chapter 171, and sections 1346(b) and 240(b)), and the Act of March 3, 1887, 24 Stat. 505, as amended (Title 28, U.S. Code, sections 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412, 2501), and the Act of June 11, 1946, 60 Stat. 237, as amended (Title 5, U.S. Code, sections 1001 and 1011, Title 50 App. U.S. Code, section 1900), the Commission shall not be considered a Federal agency.

(n) The officers and employees of the Commission (other than the United States member, alternate United States member, and advisors, and personnel employed by the United States member under direct Federal appropriation) shall not be deemed to be, for any purpose, officers or employees of the United States or to become entitled at any time by reason of employment by the Commission to any compensation or benefit payable or made available by the United States solely and directly to its officers or employees.

(o) Neither the Compact nor this Act shall be deemed to enlarge the authority of any Federal agency other than the Commission to participate in or to provide funds for projects or activities in the Delaware River Basin.

(p) The United States district courts shall have original jurisdiction of all cases or controversies arising under the Compact, and this Act and any case or controversy so arising initiated in a State Court shall be removable to the appropriate United States district court in the manner provided by § 1446, Title 28 U.S.C. Nothing contained in the Compact or elsewhere in this Act shall be construed as a waiver by the United States of its immunity from suit.

(q) The right to alter, amend, or repeal this Act is hereby expressly reserved. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by the Delaware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee.

(r) The provisions of section 2.4 and 2.6 of Article 2 of the Compact notwithstanding, the member and alternate member appointed by the President and advisor there referred to may be paid compensation by the United States, such compensation to be fixed by the President at the rates which he shall deem to prevail in respect to comparable officers in the executive branch.

(s) 1. Nothing contained in this Act or in the Compact shall impair or affect the constitutional authority of the United States or any of its powers, rights, functions, or jurisdiction under other existing or future legislation in and over the area or waters which are the subject of the Compact including projects of the Commission: *Provided*, That whenever a comprehensive plan,

or any part or revision thereof, has been adopted with the concurrence of the member appointed by the President, the exercise of any powers conferred by law on any officer, agency, or instrumentality of the United States with regard to water and related land resources in the Delaware River Basin shall not substantially conflict with any such portion of such comprehensive plan and the provisions of Section 3.8 and Article 11 of the Compact shall be applicable to the extent necessary to avoid such substantial conflict: *Provided further*, That whenever the President shall find and determine that the national interest so requires, he may suspend, modify, or delete any provision of the comprehensive plan to the extent that it affects the exercise of any powers, rights, functions, or jurisdiction conferred by law on any officer, agency, or instrumentality of the United States other than the Commission. Such action shall be taken by Executive order in which such finding and determination shall be set forth.

2. For the purposes of paragraph 1 hereof, concurrence by the member appointed by the President shall be presumed unless within 60 days after notice to him of adoption of the comprehensive plan, or any part or revision thereof, he shall file with the Commission notice of his nonconcurrence. Each concurrence of the member appointed by the President in the adoption of the comprehensive plan or any part or revision thereof may be withdrawn by notice filed with the Commission at any time between the first and sixtieth day of the sixth year after the initial adoption of the comprehensive plan and of every sixth year thereafter.

(t) In the event that any phrase, clause, sentence or provision of Section 1.4 of Article 1 of the Compact, is declared to be unconstitutional under the constitution of any of the signatory parties, or the applicability thereof to any signatory party, agency or person is held invalid by a court of last resort of competent jurisdiction, the United States shall cease to be a party to the Compact, except to the extent that the President deems remaining a party necessary and proper to protect the national interest, and shall cease to be bound by the terms thereof.

(u) All Acts or parts of Acts inconsistent with the provisions of this Act are hereby amended for the purpose of this Act to the extent necessary to carry out the provisions of this Act: *Provided, however*, That no act of the Commission shall have the effect of repealing, modifying or amending any Federal law.

#### Effectuation

15.2 (a) The President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the Compact and the initial organization and operation of the Commission thereunder.

(b) Executive departments and other agencies of the executive branch of the Federal Government shall cooperate with and furnish appropriate assistance to the United States member. Such assistance shall include the furnishing of services and facilities and may include the detailing of personnel to the United States member. Appropriations are hereby authorized as necessary for the carrying out of the functions of the United States member, including appropriations for the employment of personnel by the United States member.

15.3 Effective Date: This Act shall take effect immediately.

So as to make the bill read:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the United States hereby consents to, and joins the States of Delaware, New Jersey, and New York and the Commonwealth of Pennsylvania in, the following compact:

#### ARTICLE 1

##### Short title, definitions, purpose and limitations

Section 1.1. Short Title. This act shall be known and may be cited as the Delaware River Basin Compact.

1.2 Definitions. For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(a) "Basin" shall mean the area of drainage into the Delaware River and its tributaries, including Delaware Bay;

(b) "Commission" shall mean the Delaware River Basin Commission created and constituted by this compact;

(c) "Compact" shall mean Part I of this act.

(d) "Cost" shall mean direct and indirect expenditures, commitment, and net induced adverse effects, whether or not compensated for, used or incurred in connection with the establishment, acquisition, construction, maintenance and operation of a project;

(e) "Facility" shall mean any real or personal property, within or without the basin, and improvements thereof or thereon, and any and all rights of way, water, water rights, plants, structures, machinery and equipment, acquired, constructed, operated or maintained for the beneficial use of water resources or related land uses including, without limiting the generality of the foregoing, any and all things and appurtenances necessary, useful or convenient for the control, collection, storage, withdrawal, diversion, release, treatment, transmission, sale or exchange of water; or for navigation thereon, or the development and use of hydroelectric energy and power, and public recreational facilities; or the propagation of fish and wildlife; or to conserve and protect the water resources of the basin or any existing or future water supply source, or to facilitate any other uses of any of them;

(f) "Federal government" shall mean the government of the United States of America, and any appropriate branch, department, bureau or division thereof, as the case may be;

(g) "Project" shall mean any work, service or activity which is separately planned, financed, or identified by the commission, or any separate facility undertaken or to be undertaken within a specified area, for the conservation, utilization, control, development or management of water resources which can be established and utilized independently or as an addition to an existing facility, and can be considered as a separate entity for purposes of evaluation;

(h) "Signatory party" shall mean a state or commonwealth party to this compact, and the federal government;

(i) "Water resources" shall include water and related natural resources in, on, under, or above the ground, including related uses of land, which are subject to beneficial use, ownership or control.

1.3 Purpose and Findings. The legislative bodies of the respective signatory parties hereby find and declare:

(a) The water resources of the basin are affected with a local, state, regional and national interest and their planning, conservation, utilization, development, management and control, under appropriate arrangements for intergovernmental cooperation, are public purposes of the respective signatory parties.

(b) The water resources of the basin are subject to the sovereign right and responsibility of the signatory parties, and it is the purpose of this compact to provide for a joint exercise of such powers of sovereignty in the common interests of the people of the region.

(c) The water resources of the basin are functionally inter-related, and the uses of these resources are interdependent. A single



administrative agency is therefore essential for effective and economical direction, supervision and coordination of efforts and programs of federal, state and local governments and of private enterprise.

(d) The water resources of the Delaware River Basin, if properly planned and utilized are ample to meet all presently projected demands, including existing and added diversions in future years and ever increasing economies and efficiencies in the use and reuse of water resources can be brought about by comprehensive planning, programming and management.

(e) In general, the purposes of this compact are to promote interstate comity; to remove causes of present and future controversy; to make secure and protect present developments within the states; to encourage and provide for the planning, conservation, utilization, development, management and control of the water resources of the basin; to provide for cooperative planning and action by the signatory parties with respect to such water resources; and to apply the principle of equal and uniform treatment to all water users who are similarly situated and to all users of related facilities, without regard to established political boundaries.

**1.4 Powers of Congress; Withdrawal.** Nothing in this compact shall be construed to relinquish the functions, powers or duties of the Congress of the United States with respect to the control of any navigable waters within the basin, nor shall any provision hereof be construed in derogation of any of the constitutional powers of the Congress to regulate commerce among the states and with foreign nations. The power and right of the Congress to withdraw the federal government as a party to this compact or to revise or modify the terms, conditions and provisions under which it may remain a party by amendment, repeal or modification of any federal statute applicable thereto is recognized by the signatory parties.

**1.5 Existing Agencies; Construction.** It is the purpose of the signatory parties to preserve and utilize the functions, powers and duties of existing offices and agencies of government to the extent not inconsistent with the compact, and the commission is authorized and directed to utilize and employ such offices and agencies for the purpose of this compact to the fullest extent it finds feasible and advantageous.

#### **1.6 Duration of Compact.**

(a) The duration of this compact shall be for an initial period of 100 years from its effective date, and it shall be continued for additional periods of 100 years if not later than 20 years nor sooner than 25 years prior to the determination of the initial period or any succeeding period none of the signatory states, by authority of an act of its legislature, notifies the commission of intention to terminate the compact at the end of the then current 100 year period.

(b) In the event that this compact should be terminated by operation of paragraph (a) above, the commission shall be dissolved, its assets and liabilities transferred, and its corporate affairs wound up, in such manner as may be provided by act of the Congress.

### **ARTICLE 2**

#### *Organization and area*

**Section 2.1 Commission Created.** The Delaware River Basin Commission is hereby created as a body politic and corporate, with succession for the duration of this compact, as an agency and instrumentality of the governments of the respective signatory parties.

**2.2 Commission Membership.** The commission shall consist of the Governors of the signatory states, ex officio, and one commissioner to be appointed by the President of the United States to serve during the term of office of the President.

**2.3 Alternates.** Each member of the commission shall appoint an alternate to act in his place and stead, with authority to attend all meetings of the commission, and with power to vote in the absence of the member. Unless otherwise provided by law of the signatory party for which he is appointed, each alternate shall serve during the term of the member appointing him, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

**2.4 Compensation.** Members of the commission and alternates shall serve without compensation but may be reimbursed for necessary expenses incurred in and incident to the performance of their duties.

**2.5 Voting Power.** Each member shall be entitled to one vote on all matters which may come before the commission. No action of the commission shall be taken at any meeting unless a majority of the membership shall vote in favor thereof.

**2.6 Organization and Procedure.** The commission shall provide for its own organization and procedure, and shall adopt rules and regulations governing its meetings and transactions. It shall organize annually by the election of a chairman and vice-chairman from among its members. It shall provide by its rules for the appointment by each member in his discretion of an advisor to serve without compensation, who may attend all meetings of the commission and its committees.

**2.7 Jurisdiction of the Commission.** The commission shall have, exercise and discharge its functions, powers and duties within the limits of the basin, except that it may in its discretion act outside the basin whenever such action may be necessary or convenient to effectuate its powers or duties within the basin, or to sell or dispose of water, hydroelectric power or other water resources within or without the basin. The commission shall exercise such power outside the basin only upon the consent of the state in which it proposes to act.

### **ARTICLE 3**

#### *Powers and duties of the commission*

**Section 3.1. Purpose and Policy.** The commission shall develop and effectuate plans, policies and projects relating to the water resources of the basin. It shall adopt and promote uniform and coordinated policies for water conservation, control, use and management in the basin. It shall encourage the planning, development and financing of water resources projects according to such plans and policies.

**3.2 Comprehensive Plan, Program and Budgets.** The commission shall, in accordance with Article 13 of this compact, formulate and adopt:

(a) A comprehensive plan, after consultation with water users and interested public bodies, for the immediate and long range development and uses of the water resources of the basin;

(b) A water resources program, based upon the comprehensive plan, which shall include a systematic presentation of the quantity and quality of water resources needs of the area to be served for such reasonably foreseeable period as the commission may determine, balanced by existing and proposed projects required to satisfy such needs, including all public and private projects affecting the basin, together with a separate statement of the projects proposed to be undertaken by the commission during such period; and

(c) An annual current expense budget, and an annual capital budget consistent with the water resources program covering the commission's projects and facilities for the budget period.

**3.3 Allocations, Diversions and Releases.** The commission shall have the power from time to time as need appears, in accordance with the doctrine of equitable apportionment, to allocate the waters of the basin to and among the states signatory to this compact and to and among their respective political subdivisions, and to impose conditions, obligations and release requirements related thereto, subject to the following limitations:

(a) The commission, without the unanimous consent of the parties to the United States Supreme Court decree in *New Jersey v. New York*, 347 U.S. 995 (1954), shall not impair, diminish or otherwise adversely affect the diversions, compensating releases, rights, conditions, obligations, and provisions for the administration thereof as provided in said decree; provided, however, that after consultation with the river master under said decree the commission may find and declare a state of emergency resulting from a drought or catastrophe and it may thereupon by unanimous consent of its members authorize and direct an increase or decrease in any allocation or diversion permitted or releases required by the decree, in such manner and for such limited time as may be necessary to meet such an emergency condition.

(b) No allocation of waters hereafter made pursuant to this section shall constitute a prior appropriation of the waters of the basin or confer any superiority of right in respect to the use of those waters, nor shall any such action be deemed to constitute an apportionment of the waters of the basin among the parties hereto; provided that this paragraph shall not be deemed to limit or restrict the power of the commission to enter into covenants with respect to water supply, with a duration not exceeding the life of this compact, as it may deem necessary for the benefit or development of the water resources of the basin.

(c) Any proper party deeming itself aggrieved by action of the commission with respect to an out-of-basin diversion or compensating releases in connection therewith, notwithstanding the powers delegated to the commission by this compact may invoke the original jurisdiction of the United States Supreme Court within one year after such action for an adjudication and determination thereof de novo. Any other action of the commission pursuant to this section shall be subject to judicial review in any court of competent jurisdiction.

**3.4 Supreme Court Decree; Walvers.** Each of the signatory states and their respective political subdivisions, in consideration of like action by the others, and in recognition of reciprocal benefits, hereby waives and relinquishes for the duration of this compact any right, privilege or power it may have to apply for any modification of the terms of the decree of the United States Supreme Court in *New Jersey v. New York*, 347 U.S. 995 (1954) which would increase or decrease the diversions authorized or increase or decrease the releases required thereunder, except that a proceeding to modify such decree to increase diversions or compensating releases in connection with such increased diversions may be prosecuted by a proper party to effectuate rights, powers, duties and obligations under Section 3.3 of this compact, and except as may be required to effectuate the provisions of paragraphs IIIB3 and VB of said decree.

**3.5 Supreme Court Decree; Specific Limitations on Commission.** Except as specifically provided in Sections 3.3 and 3.4 of this article, nothing in this compact shall be construed in any way to impair, diminish or otherwise adversely affect the rights, powers, privileges, conditions and obligations contained in the decree of the United States Supreme Court in *New Jersey v. New York*,



347 U.S. 995 (1954). To this end, and without limitation thereto, the commission shall not:

(a) Acquire, construct or operate any project or facility or make any order or take any action which would impede or interfere with the rights, powers, privileges, conditions or obligations contained in said decree;

(b) Impose or collect any fee, charge or assessment with respect to diversions of waters of the basin permitted by said decree;

(c) Exercise any jurisdiction, except upon consent of all the parties to said decree, over the planning, design, construction, operation or control of any projects, structures or facilities constructed or used in connection with withdrawals, diversions and releases of waters of the basin authorized by said decree or of the withdrawals, diversions or releases to be made thereunder; or

(d) Serve as river master under said decree, except upon consent of all the parties thereto.

**3.6 General Powers.** The commission may:

(a) Plan, design, acquire, construct, reconstruct, complete, own, improve, extend, develop, operate and maintain any and all projects, facilities, properties, activities and services, determined by the commission to be necessary, convenient or useful for the purposes of this compact;

(b) Establish standards of planning, design and operation of all projects and facilities in the basin which affect its water resources, including without limitation thereto water and waste treatment plants, stream and lake recreational facilities, trunk mains for water distribution, local flood protection works, small watershed management programs, and ground water recharging operations;

(c) Conduct and sponsor research on water resources, their planning, use, conservation, management, development, control and protection, and the capacity, adaptability and best utility of each facility thereof, and collect, compile, correlate, analyze, report and interpret data on water resources and uses in the basin, including without limitation thereto the relation of water to other resources, industrial water technology, ground water movement, relation between water price and water demand, and general hydrological conditions;

(d) Compile and coordinate systematic stream stage and ground water level forecasting data, and publicize such information when and as needed for water uses, flood warning, quality maintenance or other purposes;

(e) Conduct such special ground water investigations tests, and operations and compile such data relating thereto as may be required to formulate and administer the comprehensive plan;

(f) Prepare, publish and disseminate information and reports with respect to the water problems of the basin and for the presentation of the needs, resources and policies of the basin to executive and legislative branches of the signatory parties;

(g) Negotiate for such loans, grants, services or other aids as may be lawfully available from public or private sources to finance or assist in effectuating any of the purposes of this compact; and to receive and accept such aid upon such terms and conditions, and subject to such provisions for repayment as may be required by federal or state law or as the commission may deem necessary or desirable;

(h) Exercise such other and different powers as may be delegated to it by this compact or otherwise pursuant to law, and have and exercise all powers necessary or convenient to carry out its express powers or which may be reasonably implied therefrom.

**3.7 Rates and Charges.** The commission may from time to time after public notice

and hearing fix, alter and revise rates, rentals, charges and tolls and classifications thereof, for the use of facilities which it may own or operate and for products and services rendered thereby, without regulation or control by any department, office or agency of any signatory party.

**3.8 Referral and Review.** No project having a substantial effect on the water resources of the basin shall hereafter be undertaken by any person, corporation or governmental authority unless it shall have been first submitted to and approved by the commission, subject to the provisions of Sections 3.3 and 3.5. The commission shall approve a project whenever it finds and determines that such project would not substantially impair or conflict with the comprehensive plan and may modify and approve as modified, or may disapprove any such project whenever it finds and determines that the project would substantially impair or conflict with such plan. The commission shall provide by regulation for the procedure of submission, review and consideration of projects, and for its determinations pursuant to this section. Any determination of the commission hereunder shall be subject to judicial review in any court of competent jurisdiction.

**3.9 Coordination and Cooperation.** The commission shall promote and aid the coordination of the activities and programs of federal, state, municipal and private agencies concerned with water resources administration in the basin. To this end, but without limitation thereto, the commission may:

(a) Advise, consult, contract, financially assist, or otherwise cooperate with any and all such agencies;

(b) Employ any other agency or instrumentality of any of the signatory parties or of any political subdivision thereof, in the design, construction, operation and maintenance of structures, and the installation and management of river control systems, or for any other purpose;

(c) Develop and adopt plans and specifications for particular water resources projects and facilities which so far as consistent with the comprehensive plan incorporate any separate plans of other public and private organizations operating in the basin, and permit the decentralized administration thereof;

(d) Qualify as a sponsoring agency under any federal legislation heretofore or hereafter enacted to provide financial or other assistance for the planning, conservation, utilization, development, management or control of water resources.

**3.10 Advisory Committees.** The commission may constitute and empower advisory committees, which may be comprised of representatives of the public and of federal, state, country and municipal governments, water resources agencies, water-using industries, water-interest groups, labor and agriculture.

#### ARTICLE 4

##### *Water supply*

**Section 4.1 Generally.** The commission shall have power to develop, implement and effectuate plans and projects for the use of the water of the basin for domestic, municipal, agricultural and industrial water supply. To this end, without limitation thereto, it may provide for, construct, acquire, operate and maintain dams, reservoirs and other facilities for utilization of surface and ground water resources, and all related structures, appurtenances and equipment on the river and its tributaries and at such off-river sites as it may find appropriate, and may regulate and control the use thereof.

##### **4.2 Storage and Release of Waters.**

(a) The commission shall have power to acquire, operate and control projects and facilities for the storage and release of waters, for the regulation of flows and supplies of

surface and ground waters of the basin, for the protection of public health, stream quality control, economic development, improvement of fisheries, recreation, dilution and abatement of pollution, the prevention of undue salinity and other purposes.

(b) No signatory party shall permit any augmentation of flow to be diminished by the diversion of any water of the basin during any period in which waters are being released from storage under the direction of the commission for the purpose of augmenting such flow, except in cases where such diversion is duly authorized by this compact, or by the judgment, order or decree of a court of competent jurisdiction.

**4.3 Assessable Improvements.** The commission may undertake to provide stream regulation in the main stream or any tributary in the basin and may assess on an annual basis or otherwise the cost thereof upon water users or any classification of them specially benefited thereby to a measurable extent, provided that no such assessment shall exceed the actual benefit to any water user. Any such assessment shall follow the procedure prescribed by law for local improvement assessments and shall be subject to judicial review in any court of competent jurisdiction.

**4.4 Coordination.** Prior to entering upon the execution of any project authorized by this article, the commission shall review and consider all existing rights, plans and programs of the signatory parties, their political subdivisions, private parties, and water users which are pertinent to such project, and shall hold a public hearing on each proposed project.

**4.5 Additional Powers.** In connection with any project authorized by this article, the commission shall have power to provide storage, treatment, pumping and transmission facilities, but nothing herein shall be construed to authorize the commission to engage in the business of distributing water.

#### ARTICLE 5

##### *Pollution control*

**Section 5.1 General Powers.** The commission may undertake investigations and surveys, and acquire, construct, operate and maintain projects and facilities to control potential pollution and abate or dilute existing pollution of the water resources of the basin. It may invoke as complainant the power and jurisdiction of water pollution abatement agencies of this signatory parties.

**5.2 Policy and Standards.** The commission may assume jurisdiction to control future pollution and abate existing pollution in the waters of the basin, whenever it determines after investigation and public hearing upon due notice that the effectuation of the comprehensive plan so requires. The standard of such control shall be that pollution by sewage or industrial or other waste originating within a signatory state shall not injuriously affect waters of the basin as contemplated by the comprehensive plan. The commission, after such public hearing may classify the waters of the basin and establish standards of treatment of sewage, industrial or other waste, according to such classes including allowance for the variable factors of surface and ground waters, such as size of the stream, flow, movement, location, character, self-purification, and usage of the waters affected. After such investigation, notice and hearing the commission may adopt and from time to time amend and repeal rules, regulations and standards to control such future pollution and abate existing pollution, and to require such treatment of sewage, industrial or other waste within a time reasonable for the construction of the necessary works, as may be required to protect the public health or to preserve the waters of the basin for uses in accordance with the comprehensive plan.



5.3 Cooperative Legislation and Administration. Each of the signatory parties covenants and agrees to prohibit and control pollution of the waters of the basin according to the requirements of this compact and to cooperate faithfully in the control of future pollution in and abatement of existing pollution from the rivers, streams, and waters in the basin which flow through, under, into, or border upon any of such signatory states, and in order to effect such object, agrees to enact any necessary legislation to enable each such party to place and maintain the waters of said basin in a satisfactory condition, available for safe and satisfactory use as public and industrial water supplies after reasonable treatment, suitable for recreational usage, capable of maintaining fish and other aquatic life, free from unsightly or malodorous nuisances due to floating solids or sludge deposits and adaptable to such other uses as may be provided by the comprehensive plan.

5.4 Enforcement. The commission may, after investigation and hearing, issue an order or orders upon any person or public or private corporation, or other entity, to cease the discharge of sewage, industrial or other waste into waters of the basin which it determines to be in violation of such rules and regulations as it shall have adopted for the prevention and abatement of pollution. Any such order or orders may prescribe the date, including a reasonable time for the construction of any necessary works, on or before which such discharge shall be wholly or partially discontinued, modified or treated, or otherwise conformed to the requirements of such rules and regulations. Such orders shall be reviewable in any court of competent jurisdiction. The courts of the signatory parties shall have jurisdiction to enforce against any person, public or private corporation, or other entity, any and all provisions of this Article or of any such order. The commission may bring an action in its own name in any such court of competent jurisdiction to compel compliance with any provision of this Article, or any rule or regulation issued pursuant thereto or of any such order, according to the practice and procedure of the court.

5.5 Further Jurisdiction. Nothing in this compact shall be construed to repeal, modify or qualify the authority of any signatory party to enact any legislation or enforce any additional conditions and restrictions to lessen or prevent the pollution of waters within its jurisdiction.

#### ARTICLE 6

##### *Flood protection*

Section 6.1 General Powers. The commission may plan, design, construct and operate and maintain projects and facilities, as it may deem necessary or desirable for flood damage reduction. It shall have power to operate such facilities and to store and release waters on the Delaware River and its tributaries and elsewhere within the basin, in such manner, at such times, and under such regulations as the commission may deem appropriate to meet flood conditions as they may arise.

##### 6.2 Flood Plain Zoning.

(a) The commission shall have power to adopt, amend and repeal recommended standards, in the manner provided by this section, relating to the nature and extent of the uses of land in areas subject to flooding by waters of the Delaware River and its tributaries. Such standards shall not be deemed to impair or restrict the power of the signatory parties or their political subdivisions to adopt zoning and other land use regulations not inconsistent therewith.

(b) The commission may study and determine the nature and extent of the flood

plains of the Delaware River and its tributaries. Upon the basis of such studies, it may establish encroachment lines and delineate the areas subject to flood, including a classification of lands with reference to relative risk of flood and the establishment of standards for flood plain use which will safeguard the public health, safety and property. Prior to the adoption of any standards delineating such area or defining such use, the commission shall hold public hearings, in the manner provided by Article 14, with respect to the substance of such standards. At or before such public hearings the proposed standards shall be available, and all interested persons shall be given an opportunity to be heard thereon at the hearing. Upon the adoption and promulgation of such standards, the commission may enter into agreements to provide technical and financial aid to any municipal corporation for the administration and enforcement of any local land use ordinances or regulations giving effect to such standards.

6.3 Flood Lands Acquisition. The commission shall have power to acquire the fee or any lesser interest in lands and improvements thereon within the area of a flood plain for the purpose of restricting the use of such property so as to minimize the flood hazard, converting property to uses appropriate to flood plain conditions, or preventing unwarranted constrictions that reduce the ability of the river channel to carry flood water. Any such action shall be in accord with the standards adopted and promulgated pursuant to Section 6.2.

6.4 Flood and Stream Stage Warnings and Posting. The commission may cause lands particularly subject to flood to be posted with flood hazard warnings, and may from time to time cause flood advisory notices to be published and circulated as conditions may warrant.

#### ARTICLE 7

##### *Watershed management*

Section 7.1 Watersheds Generally. The commission shall promote sound practices of watershed management in the basin, including projects and facilities to retard runoff and waterflow and prevent soil erosion.

7.2 Soil Conservation and Forestry. The commission may acquire, sponsor, or operate facilities and projects to encourage soil conservation, prevent and control erosion, and to promote land reclamation and sound forestry practices.

7.3 Fish and Wildlife. The commission may acquire, sponsor or operate projects and facilities for the maintenance and improvement of fish and wildlife habitats related to the water resources of the basin.

##### 7.4 Cooperative Planning and Operation.

(a) The commission shall cooperate with the appropriate agencies of the signatory parties and with other public and private agencies in the planning and effectuation of a coordinated program of facilities and projects authorized by this Article.

(b) The commission shall not operate any such project or facility unless it has first found and determined that no other suitable unit or agency of government is available to operate the same upon reasonable conditions, in accordance with the intent and purpose expressed in Section 1.5 of this compact.

#### ARTICLE 8

##### *Recreation*

Section 8.1 Development. The commission shall provide for the development of water related public sports and recreational facilities. The commission on its own account or in cooperation with a signatory party, political subdivision or any agency thereof, may provide for the construction, maintenance and administration of such facilities, subject to the provisions of Section 8.2 hereof.

##### 8.2 Cooperative Planning and Operation.

(a) The commission shall cooperate with the appropriate agencies of the signatory parties and with other public and private agencies in the planning and effectuation of a coordinated program of facilities and projects authorized by this article.

(b) The commission shall not operate any such project or facility unless it has first found and determined that no other suitable unit or agency of government is available to operate the same upon reasonable conditions, in accordance with the intent and purpose expressed in Section 1.5 of this compact.

8.3 Operation and Maintenance. The commission, within limits prescribed by this article, shall:

(a) Encourage activities of other public agencies having water related recreational interests and assist in the coordination thereof;

(b) Recommend standards for the development and administration of water related recreational facilities;

(c) Provide for the administration, operation and maintenance of recreational facilities owned or controlled by the commission and for the letting and supervision of private concessions in accordance with this article.

8.4 Concessions. The commission shall after notice and public hearing provide by regulation for the award of contracts for private concessions in connection with recreational facilities, including any renewal or extension thereof, upon sealed competitive bids after public advertisement therefor.

#### ARTICLE 9

##### *Hydroelectric power*

Section 9.1 Development. The waters of the Delaware River and its tributaries may be impounded and used by or under authority of the commission for the generation of hydroelectric power and hydroelectric energy, in accordance with the comprehensive plan.

9.2 Power Generation. The commission may develop and operate, or authorize to be developed and operated, dams and related facilities and appurtenances for the purpose of generating hydroelectric power and hydroelectric energy.

9.3 Transmission. The commission may provide facilities for the transmission of hydroelectric power and hydroelectric energy produced by it where such facilities are not otherwise available upon reasonable terms, for the purpose of wholesale marketing of power and nothing herein shall be construed to authorize the commission to engage in the business of direct sale to consumers.

9.4 Development Contracts. The commission may after public notice and hearing enter into contracts on reasonable terms, consideration and duration under which public utilities or public agencies may develop hydroelectric power and hydroelectric energy through the use of dams, related facilities and appurtenances.

9.5 Rates and Charges. Rates and charges fixed by the commission for power which is produced by its facilities shall be reasonable, nondiscriminatory, and just.

#### ARTICLE 10

##### *Regulation of withdrawals and diversions*

Section 10.1 Power of Regulation. The commission may regulate and control withdrawals and diversions from surface waters and ground waters of the basin, as provided by this article. The commission may enter into agreements with the signatory parties relating to the exercise of such power or regulation or control and may delegate to any of them such powers of the commission as it may deem necessary or desirable.

10.2 Determination of Protected Areas. The commission may from time to time after public hearing upon due notice deter-



mine and delineate such areas within the basin wherein the demands upon supply made by water users have developed or threaten to develop to such a degree as to create a water shortage or to impair or conflict with the requirements or effectuation of the comprehensive plan, and any such areas may be designated as "protected areas." The commission, whenever it determines that such shortage no longer exists, shall terminate the protected status of such area and shall give public notice of such termination.

10.3 Withdrawal Permits. In any protected areas so determined and delineated, no person, firm, corporation or other entity shall divert or withdraw water for domestic, municipal, agricultural or industrial uses in excess of such quantities as the commission may prescribe by general regulation, except (i) pursuant to a permit granted under this article, or (ii) pursuant to a permit or approval heretofore granted under the laws of any of the signatory states.

10.4 Emergency. In the event of a drought or other condition which may cause an actual and immediate shortage of available water supply within the basin, or within any part thereof, the commission may, after public hearing, determine and delineate the area of such shortage and declare a water supply emergency therein. For the duration of such emergency as determined by the commission no person, firm, corporation or other public or private entity shall divert or withdraw water for any purpose, in excess of such quantities as the commission may prescribe by general regulation or authorize by special permit granted hereunder.

10.5 Standards. Permits shall be granted, modified or denied as the case may be so as to avoid such depletion of the natural stream flows and ground waters in the protected area or in an emergency area as will adversely affect the comprehensive plan or the just and equitable interests and rights of other lawful users of the same source, giving due regard to the need to balance and reconcile alternative and conflicting uses in the event of an actual or threatened shortage of water of the quality required.

10.6 Judicial Review. The determinations and delineations of the commission pursuant to Section 10.2 and the granting, modification or denial of permits pursuant to Section 10.3 through 10.5 shall be subject to judicial review in any court of competent jurisdiction.

10.7 Maintenance of Records. Each state shall provide for the maintenance and preservation of such records of authorized diversions and withdrawals and the annual volume thereof as the commission shall prescribe. Such records and supplementary reports shall be furnished to the commission at its request.

10.8 Existing State Systems. Whenever the commission finds it necessary or desirable to exercise the powers conferred by this article any diversion or withdrawal permits authorized or issued under the laws of any of the signatory states shall be superseded to the extent of any conflict with the control and regulation exercised by the commission.

#### ARTICLE 11

##### *Intergovernmental relations*

Section 11.1 Federal Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern federal projects affecting the water resources of the basin, subject in each case to the provisions of Section 1.4 of this compact:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construc-

tion, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the commission in the comprehensive plan;

(c) Each federal agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section.

11.2 State and Local Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern projects of the signatory states, their political subdivisions and public corporations affecting water resources of the basin:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility unless it shall have first been included by the commission in the comprehensive plan;

(c) Each state and local agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority, except as specifically provided by this section.

11.3 Reserved Taxing Powers of States. Each of the signatory parties reserves the right to levy, assess and collect fees, charges and taxes on or measured by the withdrawal or diversion of waters of the basin for use within the jurisdictions of the respective signatory parties.

11.4 Project Costs and Evaluation Standards. The commission shall establish uniform standards and procedures for the evaluation, determination of benefits, and cost allocations of projects affecting the basin, and for the determination of project priorities, pursuant to the requirements of the comprehensive plan and its water resources program. The commission shall develop equitable cost sharing and reimbursement formulas for the signatory parties including:

(a) Uniform and consistent procedures for the allocation of project costs among purposes included in multiple-purpose programs;

(b) Contracts and arrangements for sharing financial responsibility among and with signatory parties, public bodies, groups and private enterprise, and for the supervision of their performance;

(c) Establishment and supervision of a system of accounts for reimbursable purposes and directing the payments and charges to be made from such accounts;

(d) Determining the basis and apportioning amounts (i) of reimbursable revenues to be paid signatory parties or their political subdivisions, and (ii) of payments in lieu of taxes to any of them.

11.5 Cooperative Services. The commission shall furnish technical services, advice and consultation to authorized agencies of the signatory parties with respect to the water resources of the basin, and each of the signatory parties pledges itself to provide technical and administrative services to the commission upon request, within the limits of available appropriations and to cooperate generally with the commission for the purposes of this compact, and the cost of such services may be reimbursable whenever the parties deem appropriate.

#### ARTICLE 12

##### *Capital financing*

Section 12.1 Borrowing Power. The commission may borrow money for any of the purposes of this compact, and may issue its negotiable bonds and other evidences of indebtedness in respect thereto. All such

bonds and evidences of indebtedness shall be payable solely out of the properties and revenues of the commission without recourse to taxation. The bonds and other obligations of the commission, except as may be otherwise provided in the indenture under which they were issued, shall be direct and general obligations of the commission and the full faith and credit of the commission are hereby pledged for the prompt payment of the debt service thereon and for the fulfillment of all other undertakings of the commission assumed by it to or for the benefit of the holders thereof.

12.2 Funds and Expenses. The purposes of this compact shall include without limitation thereto all costs of any project or facility or any part thereof, including interest during a period of construction and a reasonable time thereafter and any incidental expenses (legal, engineering, fiscal, financial consultant and other expenses) connected with issuing and disposing of the bonds; all amounts required for the creation of an operating fund, construction fund, reserve fund, sinking fund, or other special fund; all other expenses connected with the planning, design, acquisition, construction, completion, improvement or reconstruction of any facility or any part thereof; and reimbursement of advances by the commission or by others for such purposes and for working capital.

12.3 Credit Excluded; Officers, State and Municipal. The commission shall have no power to pledge the credit of any signatory party, or of any county or municipality, or to impose any obligation for payment of the bonds upon any signatory party or any county or municipality. Neither the commissioners nor any person executing the bonds shall be liable personally on the bonds of the commission or be subject to any personal liability or accountability by reason of the issuance thereof.

12.4 Funding and Refunding. Whenever the commission deems it expedient, it may fund and refund its bonds and other obligations whether or not such bonds and obligations have matured. It may provide for the issuance, sale or exchange of refunding bonds for the purpose of redeeming or retiring any bonds (including the payment of any premium, duplicate interest or cash adjustment required in connection therewith) issued by the commission or issued by any other issuing body, the proceeds of the sale of which have been applied to any facility acquired by the commission or which are payable out of the revenues of any facility acquired by the commission. Bonds may be issued partly to refund bonds and other obligations then outstanding, and partly for any other purpose of the commission. All provisions of this compact applicable to the issuance of bonds are applicable to refunding bonds and to the issuance, sale or exchange thereof.

12.5 Bonds;— Authorization Generally. Bonds and other indebtedness of the commission shall be authorized by resolution of the commission. The validity of the authorization and issuance of any bonds by the commission shall not be dependent upon nor affected in any way by: (i) the disposition of bond proceeds by the commission or by contract, commitment or action taken with respect to such proceeds; or (ii) the failure to complete any part of the project for which bonds are authorized to be issued. The commission may issue bonds in one or more series and may provide for one or more consolidated bond issues, in such principal amounts and with such terms and provisions as the commission may deem necessary. The bonds may be secured by a pledge of all or any part of the property, revenues and franchises under its control. Bonds may be issued by the commission in such amount, with such maturities and in such denominations and form or forms, whether coupon or registered, as to both



principal and interest, as may be determined by the commission. The commission may provide for redemption of bonds prior to maturity on such notice and at such time or times and with such redemption provisions, including premiums, as the commission may determine.

**12.6 Bonds; Resolutions and Indentures Generally.** The commission may determine and enter into indentures providing for the principal amount, date or dates, maturities, interest rate, denominations, form, registration, transfer, interchange and other provisions of the bonds and coupons and the terms and conditions upon which the same shall be executed, issued, secured, sold, paid, redeemed, funded and refunded. The resolution of the commission authorizing any bond or any indenture so authorized under which the bonds are issued may include all such covenants and other provisions other than any restriction on the regulatory powers vested in the commission by this compact as the commission may deem necessary or desirable for the issue, payment, security, protection or marketing of the bonds, including without limitation covenants and other provisions as to the rates or amounts of fees, rents and other charges to be charged or made for use of the facilities; the use, pledge, custody, securing, application and disposition of such revenues, of the proceeds of the bonds, and of any other moneys of the commission; the operation, maintenance, repair and reconstruction of the facilities and the amounts which may be expended therefor; the sale, lease or other disposition of the facilities; the insuring of the facilities and of the revenues derived therefrom; the construction or other acquisition of other facilities; the issuance of additional bonds or other indebtedness; the rights of the bondholders and of any trustee for the bondholders upon default by the commission or otherwise; and the modification of the provisions of the indenture and of the bonds. Reference on the face of the bonds to such resolution or indenture by its date of adoption or the apparent date on the face thereof is sufficient to incorporate all of the provisions thereof and of this compact into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has recourse to all of the provisions of the indenture and of this compact and is bound thereby.

**12.7 Maximum Maturity.** No bond or its terms shall mature in more than fifty years from its own date and in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date herein authorized shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue.

**12.8 Tax Exemption.** All bonds issued by the commission under the provisions of this compact and the interest thereof shall at all times be free and exempt from all taxation by or under authority of any of the signatory parties, except for transfer, inheritance and estate taxes.

**12.9 Interest.** Bonds shall bear interest at a rate of not to exceed six percent per annum, payable annually or semi-annually.

**12.10 Place of Payment.** The commission may provide for the payment of the principal and interest of bonds at any place or places within or without the signatory states, and in any specified lawful coin or currency of the United States of America.

**12.11 Execution.** The commission may provide for the execution and authentication of bonds by the manual, lithographed or printed facsimile signature of officers of the commission, and by additional authentication by a trustee or fiscal agent appointed by the commission. If any of the officers

whose signatures or counter signatures appear upon the bonds or coupons cease to be officers before the delivery of the bonds or coupons, their signatures or counter signatures are nevertheless valid and of the same force and effect as if the officers had remained in office until the delivery of the bonds and coupons.

**12.12 Holding Own Bonds.** The Commission shall have power out of any funds available therefor to purchase its bonds and may hold, cancel or resell such bonds.

**12.13 Sale.** The commission may fix terms and conditions for the sale or other disposition of any authorized issue of bonds. The commission may sell bonds at less than their par or face value but no issue of bonds may be sold at an aggregate price below the par or face value thereof if such sale would result in a net interest cost to the commission calculated upon the entire issue so sold of more than six percent per annum payable semi-annually, according to standard tables of bond values. All bonds issued and sold for cash pursuant to this act shall be sold on sealed proposals to the highest bidder. Prior to such sale, the commission shall advertise for bids by publication of a notice of sale not less than ten days prior to the date of sale, at least once in a newspaper of general circulation printed and published in New York City carrying municipal bond notices and devoted primarily to financial news. The commission may reject any and all bids submitted and may thereafter sell the bonds so advertised for sale at private sale to any financially responsible bidder under such terms and conditions as it deems most advantageous to the public interest, but the bonds shall not be sold at a net interest cost calculated upon the entire issue so advertised, greater than the lowest bid which was rejected. In the event the commission desires to issue its bonds in exchange for an existing facility or portion thereof, or in exchange for bonds secured by the revenues of an existing facility, it may exchange such bonds for the existing facility or portion thereof or for the bonds so secured, plus an additional amount of cash, without advertising such bonds for sale.

**12.14 Negotiability.** All bonds issued under the provisions of this compact are negotiable instruments, except when registered in the name of a registered owner.

**12.15 Legal Investments.** Bonds of the commission shall be legal investments for savings banks, fiduciaries and public funds in each of the signatory states.

**12.16 Validation Proceedings.** Prior to the issuance of any bonds, the commission may institute a special proceeding to determine the legality of proceedings to issue the bonds and their validity under the laws of any of the signatory parties. Such proceeding shall be instituted and prosecuted in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against each of the signatory parties.

**12.17 Recording.** No indenture need be recorded or filed in any public office, other than the office of the commission. The pledge of revenues provided in any indenture shall take effect forthwith as provided therein and irrespective of the date of receipts of such revenues by the commission or the indenture trustee. Such pledge shall be effective as provided in the indenture without physical delivery of the revenues to the commission or to the indenture trustee.

**12.18 Pledged Revenues.** Bond redemption and interest payments shall, to the extent provided in the resolution or indenture, constitute a first, direct and exclusive charge and lien on all such rates, rents, tolls, fees and charges and other revenues and interest thereon received from the use and operation of the facility, and on any sinking or other funds created therefrom. All such

rates, rents, tolls, fees, charges and other revenues, together with interest thereon, shall constitute a trust fund for the security and payment of such bonds and except as and to the extent provided in the indenture with respect to the payment therefrom of expenses for other purposes including administration, operation, maintenance, improvements or extensions of the facilities or other purposes shall not be used or pledged for any other purpose so long as such bonds, or any of them, are outstanding and unpaid.

**12.19 Remedies.** The holder of any bond may for the equal benefit and protection of all holders of bonds similarly situated: (a) by mandamus or other appropriate proceedings require and compel the performance of any of the duties imposed upon the commission or assumed by it, its officers, agents or employees under the provisions of any indenture, in connection with the acquisition, construction, operation, maintenance, repair, reconstruction or insurance of the facilities, or in connection with the collection, deposit, investment, application and disbursement of the rates, rents, tolls, fees, charges and other revenues derived from the operation and use of the facilities, or in connection with the deposit, investment and disbursement of the proceeds received from the sale of bonds; or (b) by action or suit in a court of competent jurisdiction of any signatory party require the commission to account as if it were the trustee of an express trust, or enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds.

**12.20 Capital Financing by Signatory Parties; Guarantees.**

(a) The signatory parties will provide such capital funds required for projects of the commission as may be authorized by their respective statutes in accordance with a cost sharing plan prepared pursuant to Article 11 of this compact; but nothing in this section shall be deemed to impose any mandatory obligation on any of the signatory parties other than such obligations as may be assumed by a signatory party in connection with a specific project or facility.

(b) Bonds of the commission, notwithstanding any other provision of this compact, may be executed and delivered to any duly authorized agency of any of the signatory parties without public offering and may be sold and resold with or without the guarantee of such signatory party, subject to and in accordance with the constitutions of the respective signatory parties.

(c) The commission may receive and accept, and the signatory parties may make, loans, grants, appropriations, advances and payments of reimbursable or non-reimbursable funds or property in any form for the capital or operating purposes of the commission.

#### ARTICLE 13

##### *Plan, program, and budgets*

**Section 13.1 Comprehensive Plan.** The commission shall develop and adopt, and may from time to time review and revise, a comprehensive plan for the immediate and long range development and use of the water resources of the basin. The plan shall include all public and private projects and facilities which are required, in the judgment of the commission, for the optimum planning, development, conservation, utilization, management and control of the water resources of the basin to meet present and future needs; provided that the plan shall include any projects required to conform with any present or future decree or judgment of any court of competent jurisdiction. The commission may adopt a comprehensive plan or any revision thereof in



such part or parts as it may deem appropriate, provided that before the adoption of the plan or any part or revision thereof the commission shall consult with water users and interested public bodies and public utilities and shall consider and give due regard to the findings and recommendations of the various agencies of the signatory parties and their political subdivisions. The commission shall conduct public hearings with respect to the comprehensive plan prior to the adoption of the plan or any part or revision thereof.

**13.2 Water Resources Program.** The commission shall annually adopt a water resources program, based upon the comprehensive plan, consisting of the projects and facilities which the commission proposes to be undertaken by the commission and by other authorized governmental and private agencies, organizations and persons during the ensuing six years or such other reasonably foreseeable period as the commission may determine. The water resources program shall include a systematic presentation of:

- 1) the quantity and quality of water resources needs for such period;
- 2) the existing and proposed projects and facilities required to satisfy such needs, including all public and private projects to be anticipated;
- 3) a separate statement of the projects proposed to be undertaken by the commission during such period.

**13.3 Annual Current Expense and Capital Budgets.**

(a) The commission shall annually adopt a capital budget including all capital projects it proposes to undertake or continue during the budget period containing a statement of the estimated cost of each project and the method of financing thereof.

(b) The commission shall annually adopt a current expense budget for each fiscal year. Such budget shall include the commission's estimated expenses for administration, operation, maintenance and repairs, including a separate statement thereof for each project, together with its cost allocation. The total of such expenses shall be balanced by the commission's estimated revenues from all sources, including the cost allocations undertaken by any of the signatory parties in connection with any project. Following the adoption of the annual current expense budget by the commission, the executive director of the commission shall:

- 1) certify to the respective signatory parties the amounts due in accordance with existing cost sharing established for each project; and
- 2) transmit certified copies of such budget to the principal budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures. The amount required to balance the current expense budget in addition to the aggregate amount of item (1) above and all other revenues available to the commission shall be apportioned equitably among the signatory parties by unanimous vote of the commission, and the amount of such apportionment to each signatory party shall be certified together with the budget.

(c) The respective signatory parties covenant and agree to include the amounts so apportioned for the support of the current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the commission in quarterly installments during its fiscal year, provided that the commission may draw upon its working capital to finance its current expense budget pending remittances by the signatory parties.

#### ARTICLE 14

##### General provisions

**Section 14.1 Auxiliary Powers of Commission; Functions of Commissioners.**

(a) The commission, for the purposes of this compact, may:

- 1) Adopt and use a corporate seal, enter into contracts, sue and be sued in all courts of competent jurisdiction;
- 2) Receive and accept such payments, appropriations, grants, gifts, loans, advances and other funds, properties and services as may be transferred or made available to it by any signatory party or by any other public or private corporation or individual, and enter into agreements to make reimbursement for all or part thereof;

3) Provide for, acquire and adopt detailed engineering, administrative, financial and operating plans and specifications to effectuate, maintain or develop any facility or project;

4) Control and regulate the use of facilities owned or operated by the commission;

5) Acquire, own, operate, maintain, control, sell and convey real and personal property and any interest therein by contract, purchase, lease, license, mortgage or otherwise as it may deem necessary for any project or facility, including any and all appurtenances thereto necessary, useful or convenient for such ownership, operation, control, maintenance or conveyance;

6) Have and exercise all corporate powers essential to the declared objects and purposes of the commission.

(b) The commissioners, subject to the provisions of this compact, shall:

1) Serve as the governing body of the commission, and exercise and discharge its powers and duties except as otherwise provided by or pursuant to this compact;

2) Determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid subject to any provisions of law specifically applicable to agencies or instrumentalities created by compact;

3) Provide for the internal organization and administration of the commission;

4) Appoint the principal officers of the commission and delegate to and allocate among them administrative functions, powers and duties;

5) Create and abolish offices, employments and position as it deems necessary for the purposes of the commission, and subject to the provisions of this article, fix and provide for the qualification, appointment, removal, term, tenure, compensation, pension and retirement rights of its officers and employees;

6) Let and execute contracts to carry out the powers of the commission.

**14.2 Regulations; Enforcement.** The commission may:

(a) Make and enforce reasonable rules and regulations for the effectuation, application and enforcement of this compact; and it may adopt and enforce practices and schedules for or in connection with the use, maintenance and administration of projects and facilities it may own or operate and any product or service rendered thereby; provided that any rule or regulation, other than one which deals solely with the internal management of the commission, shall be adopted only after public hearing and shall not be effective unless and until filed in accordance with the law of the respective signatory parties applicable to administrative rules and regulations generally; and

(b) Designate any officer, agent or employee of the commission to be an investigator or watchman and such person shall be vested with the powers of a peace officer of the state in which he is duly assigned to perform his duties.

**14.3 Tax Exemption.** The commission, its property, functions, and activities shall be exempt from taxation by or under the authority of any of the signatory parties or any political subdivision thereof; provided that in lieu of property taxes the commission shall, as to specific projects, make payments to local taxing districts in annual amounts which shall equal the taxes lawfully assessed upon property for the tax year next prior to its acquisition by the commission for a period of ten years. The nature and amount of such payments shall be reviewed by the commission at the end of ten years, and from time to time thereafter, upon reasonable notice and opportunity to be heard to the affected taxing district, and the payments may be thereupon terminated or continued in such reasonable amount as may be necessary or desirable to take into account hardships incurred and benefits received by the taxing jurisdiction which are attributable to the project.

**14.4 Meetings; Public Hearings; Records, Minutes.**

(a) All meetings of the commission shall be open to the public.

(b) The commission shall conduct at least one public hearing prior to the adoption of the comprehensive plan, water resources program, annual capital and current expense budgets, the letting of any contract for the sale or other disposition by the commission of hydroelectric energy or water resources to any person, corporation or entity, and in all other cases wherein this compact requires a public hearing. Such hearing shall be held upon at least ten days public notice given by posting at the offices of the commission. The commission shall also provide forthwith for distribution of such notice to the press and by the mailing of a copy thereof to any person who shall request such notices.

(c) The minutes of the commission shall be a public record open to inspection at its offices during regular business hours.

**14.5 Officers Generally.**

(a) The officers of the commission shall consist of an executive director and such additional officers, deputies, and assistants as the commission may determine. The executive director shall be appointed and may be removed by the affirmative vote of a majority of the full membership of the commission. All other officers and employees shall be appointed by the executive director under such rules of procedure as the commission may determine.

(b) In the appointment and promotion of officers and employees for the commission, no political, racial, religious or residence test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be solely on the basis of merit and fitness. Any officer or employee of the commission who is found by the commission to be guilty of a violation of this section shall be removed from office by the commission.

**14.6 Oath of Office.** An oath of office in such form as the commission shall prescribe shall be taken, subscribed and filed with the commission by the executive director and by each officer appointed by him not later than fifteen days after the appointment.

**14.7 Bond.** Each officer shall give such bond and in such form and amount as the commission may require for which the commission may pay the premium.

**14.8 Prohibited Activities.**

(a) No commissioner, officer or employee shall:

1) be financially interested, either directly or indirectly, in any contract, sale, purchase, lease or transfer of real or personal property to which the commission is a party;

2) solicit or accept money or any other thing of value in addition to the compensation or expenses paid him by the commission



for services performed within the scope of his official duties;

3) offer money or any thing of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the commission.

(b) Any officer or employee who shall willfully violate any of the provisions of this section shall forfeit his office or employment.

(c) Any contract or agreement knowingly made in contravention of this section is void.

(d) Officers and employees of the commission shall be subject in addition to the provisions of this section to such criminal and civil sanctions for misconduct in office as may be imposed by federal law and the law of the signatory date in which such misconduct occurs.

14.9 Purchasing. Contracts for the construction, reconstruction or improvement of any facility when the expenditure required exceeds ten thousand dollars and contracts for the purchase of services, supplies, equipment and materials when the expenditure required exceeds two thousand five hundred dollars shall be advertised and let upon sealed bids to the lowest responsible bidder. Notice requesting such bids shall be published in a manner reasonably likely to attract prospective bidders, which publication shall be made at least ten days before bids are received and in at least two newspapers of general circulation in the basin. The commission may reject any and all bids and readvertise in its discretion. If after rejecting bids the commission determines and resolves that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the commission may give each responsible bidder an opportunity to negotiate a price and may proceed to purchase the supplies, equipment and materials in the open market at a negotiated price which is lower than the lowest rejected bid of a responsible bidder, without further observance of the provisions requiring bids or notice. The commission shall adopt rules and regulations to provide for purchasing from the lowest responsible bidder when sealed bids, notice and publication are not required by this section. The commission may suspend and waive the provisions of this section requiring competitive bids whenever:

1) the purchase is to be made from or the contract to be made with the federal or any state government or any agency or political subdivision thereof or pursuant to any open end bulk purchase contract of any of them;

2) the public exigency requires the immediate delivery of the articles or performance of the service;

3) only one source of supply is available;

4) the equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest; or

5) services are to be provided of a specialized or professional nature.

14.10 Insurance. The commission may self-insure or purchase insurance and pay the premiums therefor against loss or damage to any of its properties; against liability for injury to persons or property; and against loss of revenue from any cause whatsoever. Such insurance coverage shall be in such form and amount as the commission may determine, subject to the requirements of any agreement arising out of the issuance of bonds by the commission.

14.11 Annual Independent Audit.

(a) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial accounts of the commission. The audit shall be made by qualified certified public accountants selected by the commission, who have no personal interest direct or indirect in the financial affairs of the

commission or any of its officers or employees. The report of audit shall be prepared in accordance with accepted accounting practices and shall be filed with the chairman and such other officers as the commission shall direct. Copies of the report shall be distributed to each commissioner and shall be made available for public distribution.

(b) Each signatory party by its duly authorized officers shall be entitled to examine and audit at any time all of the books, documents, records, files and accounts and all other papers, things or property of the commission. The representatives of the signatory parties shall have access to all books, documents, records, accounts, reports, files and all other papers, things or property belonging to or in use by the commission and necessary to facilitate the audit and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents and custodians.

(c) The financial transactions of the commission shall be subject to audit by the general accounting office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the comptroller general of the United States. The audit shall be conducted at the place or places where the accounts of the commission are kept.

(d) Any officer or employee who shall refuse to give all required assistance and information to the accountants selected by the commission or to the authorized officers of any signatory party or who shall refuse to submit to them for examination such books, documents, records, files, accounts, papers, things or property as may be requested shall forfeit his office.

14.12. Reports. The commission shall make and publish an annual report to the legislative bodies of the signatory parties and to the public reporting on its programs, operations and finances. It may also prepare, publish and distribute such other public reports and informational materials as it may deem necessary or desirable.

14.13. Grants, Loans or Payments by States or Political Subdivisions.

(a) Any or all of the signatory parties or any political subdivision thereof may:

1) Appropriate to the commission such funds as may be necessary to pay preliminary expenses such as the expenses incurred in the making of borings, and other studies of subsurface conditions, in the preparation of contracts for the sale of water and in the preparation of detailed plans and estimates required for the financing of a project;

2) Advance to the commission, either as grants or loans, such funds as may be necessary or convenient to finance the operation and management of or construction by the commission of any facility or project;

3) Make payments to the commission for benefits received or to be received from the operation of any of the projects or facilities of the commission.

(b) Any funds which may be loaned to the commission either by a signatory party or a political subdivision thereof shall be repaid by the commission through the issuance of bonds or out of other income of the commission, such repayment to be made within such period and upon such terms as may be agreed upon between the commission and the signatory party or political subdivision making the loan.

14.14 Condemnation Proceedings.

(a) The commission shall have the power to acquire by condemnation the fee or any lesser interest in lands, lands lying under water, development rights in land, riparian rights, water rights, waters and other real or personal property within the basin for any project or facility authorized pursuant

to this compact. This grant of power of eminent domain includes but is not limited to the power to condemn for the purposes of this compact any property already devoted to a public use, by whomsoever owned or held, other than property of a signatory party and any property held, constructed, operated or maintained in connection with a diversion authorized by a United States Supreme Court decree. Any condemnation of any property or franchises owned or used by a municipal or privately owned public utility, unless the affected public utility facility is to be relocated or replaced, shall be subject to the authority of such state board, commission or other body as may have regulatory jurisdiction over such public utility.

(b) Such power of condemnation shall be exercised in accordance with the provisions of any federal law applicable to the commission; provided that if there is no such applicable federal law, condemnation proceedings shall be in accordance with the provisions of such general state condemnation law as may be in force in the signatory state in which the property is located.

(c) Any award or compensation for the taking of property pursuant to this article shall be paid by the commission, and none of the signatory parties nor any other agency, instrumentality or political subdivision thereof shall be liable for such award or compensation.

14.15 Conveyance of Lands and Relocation of Public Facilities.

(a) The respective officers, agencies, departments, commissions or bodies having jurisdiction and control over real and personal property owned by the signatory parties are authorized and empowered to transfer and convey in accordance with the laws of the respective parties to the commission any such property as may be necessary or convenient to the effectuation of the authorized purposes of the commission.

(b) Each political subdivision of each of the signatory parties is authorized and empowered, notwithstanding any contrary provision of law, to grant and convey to the commission, upon the commission's request, any real property or any interest therein owned by such political subdivision including lands lying under water and lands already devoted to public use which may be necessary or convenient to the effectuation of the authorized purposes of the commission.

(c) Any highway, public utility or other public facility which will be dislocated by reason of a project deemed necessary by the commission to effectuate the authorized purposes of this compact shall be relocated and the cost thereof shall be paid in accordance with the law of the state in which the facility is located; provided that the cost of such relocation payable by the commission shall not in any event exceed the expenditure required to serve the public convenience and necessity.

14.16 Rights of Way. Permission is hereby granted to the commission to locate, construct and maintain any aqueducts, lines, pipes, conduits and auxiliary facilities authorized to be acquired, constructed, owned, operated or maintained by the commission in, over, under or across any streets and highways now or hereafter owned, opened or dedicated to or for public use, subject to such reasonable conditions as the highway department of the signatory party may require.

14.17 Penal Sanction. Any person, association or corporation who violates or attempts or conspires to violate any provision of this compact or any rule, regulation or order of the commission duly made, promulgated or issued pursuant to the compact in addition to any other remedy, penalty or consequence provided by law shall be punishable as may be provided by statute of any of the signatory parties within which



the offense is committed; provided that in the absence of such provision any such person, association or corporation shall be liable to a penalty of not less than \$50 nor more than \$1000 for each such offense to be fixed by the court which the commission may recover in its own name in any court of competent jurisdiction, and in a summary proceeding where available under the practice and procedure of such court. For the purposes of this section in the event of a continuing offense each day of such violation, attempt or conspiracy shall constitute a separate offense.

14.18 Tort Liability. The commission shall be responsible for claims arising out of the negligent acts or commissions of its officers, agents and employees only to the extent and subject to the procedures prescribed by law generally with respect to officers, agents and employees of the government of the United States.

14.19 Effect on Riparian Rights. Nothing contained in this compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective signatory parties relating to riparian rights.

14.20 Amendments and Supplements. Amendments and supplements to this compact to implement the purposes thereof may be adopted by legislative action of any of the signatory parties concurred in by all of the others.

#### *Construction and severability*

14.21 The provisions of this Act and of agreements thereunder shall be severable and if any phrase, clause, sentence or provision of the Delaware River Basin Compact or such agreement is declared to be unconstitutional or the applicability thereof to any signatory party, agency or person is held invalid, the constitutionality of the remainder of such compact or such agreement and the applicability thereof to any other signatory party, agency, person or circumstance shall not be affected thereby. It is the legislative intent that the provisions of such compact be reasonably and liberally construed.

14.22 Effective Date; Execution. This compact shall become binding and effective thirty days after the enactment of concurring legislation by the federal government, the states of Delaware, New Jersey and New York, and the Commonwealth of Pennsylvania. The compact shall be signed and sealed in six duplicate original copies by the respective chief executives of the signatory parties. One such copy shall be filed with the Secretary of State of each of the signatory parties or in accordance with the laws of the state in which the filing is made, and one copy shall be filed and retained in the archives of the commission upon its organization. The signatures shall be affixed and attested under the following form:

In witness whereof, and in evidence of the adoption and enactment into law of this compact by the Congress and legislatures, respectively, of the signatory parties, the President of the United States and the respective Governors do hereby, in accordance with authority conferred by law, sign this compact in six duplicate original copies, as attested by the respective secretaries of state, and have caused the seals of the United States and of the respective states to be hereunto affixed this \_\_\_\_\_ day of \_\_\_\_\_, 19—.

#### PART II

##### ARTICLE 15

##### *Reservations*

15.1 In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

(a) Notwithstanding any provision of the Delaware River Basin Compact the Delaware River Basin Commission shall not undertake any project (as defined in such compact), other than a project for which State supplied funds only will be used, beyond the planning stage until—

(1) such Commission has submitted to the Congress such complete plans and estimates for such project as may be necessary to make an engineering evaluation of such project, including—

(A) where the project will serve more than one purpose, an allocation of costs among the purposes served and an estimate of the ratio of benefits to costs for each such purpose,

(B) an apportionment of costs among the beneficiaries of the project, including the portion of the costs to be borne by the Federal Government and by State and local governments, and

(C) a proposal for financing the project, including the terms of any proposed bonds or other evidences of indebtedness to be used for such purpose; and

(2) such project has been authorized by Act of Congress.

(b) No provision of Section 3.7 of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the Basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the Compact; or to impose any charges with respect to commercial navigation within the Basin, jurisdiction over which is reserved to the Federal Government: *Provided*, That this paragraph shall be applicable to the extent not inconsistent with Section 1.4 of this Compact.

(c) Nothing contained in the Compact shall be deemed to restrict the executive powers of the President in the event of a national emergency.

(d) Notwithstanding the provisions of Article 2, section 2.2 of the Compact, the member of the commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President.

(e) Nothing contained in the Compact shall be construed as impairing or in any manner affecting the applicability to all Federal funds budgeted and appropriated for use by the Commission, or such authority over budgetary and appropriation matters as the President and Congress may have with respect to agencies in the Executive Branch of the Federal Government.

(f) Except to the same extent that state bonds are or may continue to be free or exempt from Federal taxation under the internal revenue laws of the United States, nothing contained in the Compact shall be construed as freeing or exempting from internal revenue taxation in any manner whatsoever any bonds issued by the Commission, their transfer, or the income therefrom (including any profits made on the sale thereon).

(g) Nothing contained in the Compact shall be construed to obligate the United States legally or morally to pay the principal or interest on any bonds issued by the Delaware River Basin Commission.

(h) Notwithstanding the provisions of section 11.5 or any other provision of the Compact, the furnishing of technical services to the Commission by agencies of the executive branch of the Government of the United States is pledged only to the extent that the respective agencies shall from time to time agree thereto or to the extent that the President may from time to time direct such agencies to perform such services for the Commission. Nothing in the Compact shall be deemed to require the United States to furnish administrative services or facilities for carrying out functions of the Commis-

sion except to the extent that the President may direct.

(i) All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are undertaken by the Commission or are financially assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the locality so determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in any workweek, as the case may be. A provision stating the minimum wages thus determined and the requirement that overtime be paid as above provided shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project. The Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards specified in this provision, the supervisory, investigatory and other authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 1332-15), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

(j) Contracts for the manufacture or furnishing of materials, supplies, articles and equipment with the Commission which are in excess of \$10,000 shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.).

(k) Notwithstanding any other provision of this Act, nothing contained in this Act or in the Compact shall be construed as superseding or limiting the functions, under any other law, of the Secretary of Health, Education, and Welfare or of any other officer or agency of the United States, relating to water pollution: *Provided*, That the exercise of such functions shall not limit the authority of the Commission to control, prevent, or abate water pollution.

(l) The provisions of section 8.4 of Article 8 of the Compact shall not be construed to apply to facilities operated pursuant to any other Federal law.

(m) For purposes of the Act of June 25, 1948, 62 Stat. 982, as amended (Title 28, U.S. Code, chapter 171, and sections 1346(b) and 240(b)) and the Act of March 3, 1887, 24 Stat. 505, as amended (Title 28, U.S. Code, sections 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412, 2501), and the Act of June 11, 1946, 60 Stat. 237, as amended (Title 5, U.S. Code, sections 1001 and 1011, Title 50 App. U.S. Code, section 1900), the Commission shall not be considered a Federal agency.

(n) The officers and employees of the Commission (other than the United States member, alternate United States member, and advisors, and personnel employed by the United States member under direct Federal appropriation) shall not be deemed to be, for any purpose, officers or employees of the United States or to become entitled at any time by reason of employment by the Commission to any compensation or benefit payable or made available by the United States solely and directly to its officers or employees.

(o) Neither the Compact nor this Act shall be deemed to enlarge the authority of any Federal agency other than the Commission to participate in or to provide funds for projects or activities in the Delaware River Basin.

(p) The United States district courts shall have original jurisdiction of all cases or controversies arising under the Compact, and this Act and any case or controversy



so arising initiated in a State Court shall be removable to the appropriate United States district court in the manner provided by § 1446, Title 28 U.S.C. Nothing contained in the Compact or elsewhere in this Act shall be construed as a waiver by the United States of its immunity from suit.

(q) The right to alter, amend, or repeal this Act is hereby expressly reserved. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by the Delaware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee.

(r) The provisions of section 2.4 and 2.6 of Article 2 of the Compact notwithstanding, the member and alternate member appointed by the President and advisor there referred to may be paid compensation by the United States, such compensation to be fixed by the President at the rates which he shall deem to prevail in respect to comparable officers in the executive branch.

(s) 1. Nothing contained in this Act or in the Compact shall impair or affect the constitutional authority of the United States or any of its powers, rights, functions, or jurisdiction under other existing or future legislation in and over the area or waters which are the subject of the Compact including projects of the Commission: *Provided*, That whenever a comprehensive plan, or any part or revision thereof, has been adopted with the concurrence of the member appointed by the President, the exercise of any powers conferred by law on any officer, agency or instrumentality of the United States with regard to water and related land resources in the Delaware River Basin shall not substantially conflict with any such portion of such comprehensive plan and the provisions of Section 3.8 and Article 11 of the Compact shall be applicable to the extent necessary to avoid such substantial conflict: *Provided further*, That whenever the President shall find and determine that the national interest so requires, he may suspend, modify or delete any provision of the comprehensive plan to the extent that it affects the exercise of any powers, rights, functions, or jurisdiction conferred by law on any officer, agency or instrumentality of the United States other than the Commission. Such action shall be taken by executive order in which such finding and determination shall be set forth.

2. For the purposes of paragraph 1 hereof, concurrence by the member appointed by the President shall be presumed unless within 60 days after notice to him of adoption of the comprehensive plan, or any part or revision thereof, he shall file with the Commission notice of his nonconcurrence. Each concurrence of the member appointed by the President in the adoption of the comprehensive plan or any part or revision thereof may be withdrawn by notice filed with the Commission at any time between the first and sixtieth day of the sixth year after the initial adoption of the comprehensive plan and of every sixth year thereafter.

(t) In the event that any phrase, clause, sentence or provision of Section 1.4 of Article 1 of the Compact, is declared to be unconstitutional under the constitution of any of the signatory parties, or the applicability thereof to any signatory party, agency or person is held invalid by a court of last resort of competent jurisdiction, the United States shall cease to be a party to the Compact, except to the extent that the President deems remaining a party necessary and proper to protect the national interest, and shall cease to be bound by the terms thereof.

(u) All Acts or parts of Acts inconsistent with the provisions of this Act are hereby amended for the purpose of this Act to the extent necessary to carry out the provisions of this Act: *Provided, however*, That no act

of the Commission shall have the effect of repealing, modifying or amending any Federal law.

#### Effectuation

15.2 (a) The President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the Compact and the initial organization and operation of the Commission thereunder.

(b) Executive departments and other agencies of the executive branch of the Federal Government shall cooperate with and furnish appropriate assistance to the United States member. Such assistance shall include the furnishing of services and facilities and may include the detailing of personnel to the United States member. Appropriations are hereby authorized as necessary for the carrying out of the functions of the United States member, including appropriations for the employment of personnel by the United States member.

15.3 Effective Date: This Act shall take effect immediately.

Mr. KERR. Mr. President, I wish to make a brief statement with regard to S. 856.

The proposed legislation represents the concerted efforts of the States of New York, Pennsylvania, New Jersey and Delaware to arrive at a basis for the allocation and utilization of the waters of the Delaware River Basin. It also has, with the proposed amendment, the approval of the executive branch and the approval of the Committee on Public Works with respect to the intent and purpose of the bill.

The compact has been ratified by each of the four States and has been acted upon by the House of Representatives. It now requires action by the Senate and approval by the President to become effective.

In that regard, the amendment which has been added to the bill by the Senate Committee on Public Works has been accepted and approved by all of the sponsors of the bill—that is, the Senators from New York, Pennsylvania, New Jersey, and Delaware, with one exception—and the amendment has been approved by the executive branch of the Government.

All the modifications suggested by the executive branch of the Government save one were adopted by the committee and put into the bill. That one provision had to do with the policy in connection with the proposed legislation on the question of the traditional provisions in law with reference to the preference rights of certain customers for hydroelectric power. The reason the proposal was not put into the bill was that the bill does not authorize any projects. The bill ratifies a compact among 4 States and the Federal Government and sets up a working organization to effectuate the development of plans for the utilization and allocation of waters from the Delaware River Basin, but does not authorize any Federal project to be built either in part or in whole with Federal money.

It was the belief of the committee that the question of the continuing policy on the preference rights of certain customers for hydroelectric power should be left undisturbed, as is now the law and as it would be written into the law with reference to any project which might hereafter be authorized in this area by

the Congress, to be built in whole or in part with Federal funds. That fact is specifically set forth in the report on the bill now before the Senate.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. KERR. I yield to the Senator from Georgia.

Mr. RUSSELL. The Senator has answered in part the question I had in mind, when he discussed projects. I wondered how a project authorization could get into a compact bill. Is there anything in the bill which commits the Federal Government directly or impliedly to the construction of any project or the contribution of any financial assistance to any project?

Mr. KERR. The bill does not in any way authorize any project to be built with Federal money. In fact, the bill contains this language beginning on line 17 of page 69:

(a) Notwithstanding any provision of the Delaware River Basin Compact the Delaware River Basin Commission shall not undertake any project (as defined in such compact), other than a project for which State supplied funds only will be used, beyond the planning stage until—

(1) such Commission has submitted to the Congress such complete plans and estimates for such project as may be necessary to make an engineering evaluation of such project, including—

(A) where the project will serve more than one purpose, an allocation of costs among the purposes served and an estimate of the ratio of benefits to costs for each such purpose,

(B) an apportionment of costs among the beneficiaries of the project, including the portion of the costs to be borne by the Federal Government and by State and local governments, and

(C) a proposal for financing the project, including the terms of any proposed bonds or other evidences of indebtedness to be used for such purpose; and

(2) such project has been authorized by Act of Congress.

Mr. RUSSELL. I am somewhat reassured, except that one clause the Senator read refers to a Federal portion. We have had the experience of passing bills of this type, which did not specifically authorize projects, and later hearing sponsors of a project tell the Senate that because of passage of certain legislation the Congress was morally obligated in some way to assist in the consideration of the project.

The Senator from Oklahoma is in charge of the bill. Does the Senator consider that there is anything in the bill which would create the slightest moral obligation on the part of the Congress to authorize a project?

Mr. KERR. There is not. Let me again read briefly from the language, wherein this is set forth:

Notwithstanding any provision of the Delaware River Basin Compact the Delaware River Basin Commission shall not undertake any project (as defined in such compact), other than a project for which State supplied funds only will be used—

Mr. RUSSELL. I understand that language, but the next clause bothered me a little.

Mr. KERR. It reads: beyond the planning stage until—



And among other things—such project has been authorized by act of Congress.

Mr. RUSSELL. The Senator's statement that there is nothing in the bill which implies any moral obligation on the part of the Congress to respond satisfies me.

Mr. KERR. I thank the Senator.

The sponsors of the proposal legislation came before the committee. Two of the sponsors are members of the committee. They themselves wished to make it clear that such was the intent and purpose of the bill.

Mr. CASE of South Dakota. Mr. President, will the Senator yield?

Mr. KERR. I yield to the Senator from South Dakota.

Mr. CASE of South Dakota. A little further assurance with respect to the possible or potential obligation of the United States may be found in the paragraph at the top of page 72 of the bill, which is:

Nothing contained in the Compact shall be construed to obligate the United States legally or morally to pay the principal or interest on any bonds issued by the Delaware River Basin Commission.

That is certainly intended to prevent any fiscal obligation or financial obligation to rest on the Federal Government growing out of any activity of the Delaware River Basin Commission.

Mr. KERR. Mr. President, in my judgment, S. 856 would provide an efficient and practical means of carrying forward a much needed program in the Delaware River Basin.

Mr. KEATING. Mr. President, I am very glad that the Senate is prepared to take action today on a piece of legislation that is of vital importance to the four States that border on the Delaware River. The compact which this legislation will approve is an interstate-Federal compact, and provides for an agency to develop the resources of the Delaware River basin in a comprehensive, multi-purpose plan including facilities for water supply, pollution control, flood protection, watershed management, recreation, and hydroelectric power.

Mr. President, this legislation is the result of 40 years of effort and dedication by those who recognize the need for comprehensive planning of the entire Delaware River Basin. For the last few months representatives from the States have been working with officials of the Federal Government to iron out entirely and objections that have been raised to the compact.

All four legislatures have passed the compact with accompanying enabling legislation. In New York State, there were only two dissenting votes in both of two houses of the legislature. The House of Representatives has passed a very similar version of the bill. The Senate Judiciary Committee reported favorably on the House version, as amended, which is similar to this bill.

The greatest virtue of this compact is the provision of a single Federal representative on the agency who could represent the combined views of the dozen or so Federal agencies which are presently involved in the control and devel-

opment of river basins. At present Federal and State governments have different responsibilities in the area. The Federal Government is principally concerned with flood control, navigation, and irrigation. The States administer fish and wildlife, drainage, water supply, and sewage disposal. The combining of State and Federal representatives under a system of dynamic federalism by this compact provides fair and efficient consideration of Federal and State interests in the Delaware River Basin. This bill provides in effect for a partnership, with the Federal Government and four State governments acting as equal partners, bringing all of their combined knowledge and resources to bear on the long-term problem of harnessing a tremendous river which respects no artificial distinctions of jurisdiction.

Mr. President, I congratulate the Public Works Committee for its prompt action in reporting favorably on the bill so that the Senate may take prompt action today and guarantee congressional approval of the measure before this session of the Congress has adjourned.

Mr. KERR. Mr. President, I ask unanimous consent that the committee amendment be considered and agreed to, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. KERR. Mr. President, on the basis of the 20 or 30 years of work that have gone into the development, writing, and negotiation of an agreement upon this compact by the four great States concerned, upon the basis that the project has been approved almost unanimously by the legislature of each of the States, the bills being signed by the Governors of the four States, upon the basis of the passage of the bill by the House of Representatives of the United States Congress, upon the basis of its having been amended in accordance with all the recommendations of the agencies of the executive branch of our Government, with the one exception that I have specifically outlined, and on the basis of its approval by the Committee on Public Works, I urge the passage of the bill by the Senate.

Mr. RUSSELL. Mr. President, will the Senator yield?

Mr. KERR. I yield.

Mr. RUSSELL. I hope the questions I have asked will not create any assumption that I would necessarily be opposed to a Federal project on this river. But I have learned from experience that at times standing silent when certain bills have been passed has been construed as acquiescence on the part of those present in some kind of moral commitment. For that reason I asked the question. If any project in these four States were deserving and found desirable on a cost-plus ratio by the Board of Engineers, I would be glad to support it as I would a similar project in any other section.

Mr. KERR. No Senator has a finer record of supporting such projects than has the Senator from Georgia. The

Senator from Oklahoma shares his ideas entirely with regard to the principle discussed and involved. It was the purpose of the committee to write a provision into the bill so that there would be neither moral nor legislative obligation under the act to constitute an authorization of any project for construction with Federal funds.

The PRESIDING OFFICER. The bill is open to amendment.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. KERR. I yield.

Mr. JACKSON. The Senator will recall that the House-passed measure, H.J. Res. 225, was referred to the Committee on Interior and Insular Affairs for consideration and report. The Interior Committee reported the bill yesterday, with Report No. 1032.

Mr. KERR. The Resolution was referred first to the Committee on the Judiciary and then referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. The Senator is correct.

Mr. KERR. As I understand, with one exception the measure approved by the members of the Committee on Interior and Insular Affairs is identical to S. 856 as reported by the Committee on Public Works.

Mr. JACKSON. Yes, the Interior committee approved all the amendments adopted by the Committee on Public Works, with the exception of the language that was added to the provision for congressional authorization. On what page does it appear?

Mr. KERR. On page 69, lines 20 and 21.

Mr. JACKSON. The committee was impressed by the fact that while the effort on the part of the Senate Committee on Public Works was to exclude all projects from authorization with respect to which the State had supplied funds—

Mr. KERR. Let me see if I can state it the way I understand and the way to which the Senator can agree.

The purpose of the language of which the deleted sentence is a part is that which sets forth that—

Nothing in the act shall be construed as the authorization for the construction of any project other than a project for which State-supplied funds only will be used.

Mr. JACKSON. That is correct.

Mr. KERR. The Committee on Interior and Insular Affairs eliminated or deleted the words "other than a project for which State-supplied funds only will be used."

Mr. JACKSON. That is correct.

Mr. KERR. It was the thought of the Committee on Public Works that if this compact contemplated a plan for a project or for projects which were to be built by State funds exclusively, in accordance with the agreement of the compact and of the compacting States, that certainly should not be something that should be prohibited by the Act.

Mr. JACKSON. In general, I agree with the Senator's position. However, the point that disturbed us was the fact that the program is one involving a long-range comprehensive, basinwide devel-



opment on the part of the four States. It would be possible for a State or States to build a single project with State funds, which would have an impact on the comprehensive basinwide development contemplated by the compact. That is why the committee decided that if a State project were to be undertaken, which might have an impact upon or interfere with or change the overall comprehensive development, there should be an authorization by Congress. We left that language out excepting such projects from congressional authorization. We took all the Senator's amendments completely except that we felt there should be some clear language and understanding that if there were to be an undertaking on the part of the State or States solely out of State funds, but which would have an impact on the comprehensive development contemplated by this compact, there should be an authorization by Congress.

We set that out in language accompanying the bill which we reported. I hope the Senator will delete the language making the exception, because we are concerned lest this comprehensive plan in fact be defeated by the States selecting a given project which they could undertake with their funds and which could defeat, in part at least, the comprehensive plan contemplated by the compact.

Mr. KERR. All the States affected by the Delaware River and its tributaries are in the compact. All of the States, any part of which are in the Delaware River Basin, are in the compact. They have arrived at an agreement which is acceptable to them, and which would determine the manner in which a project in the Delaware River Basin would be built and how it would be built, provided that it is built wholly with State funds, and provided that it is built in accordance with an agreement of the compacting States at the time.

The Committee on Public Works felt, and now feels, that if all the States in their river basin agree on a project that will be beneficial to those States and to the conservation of the waters of that river basin, and are willing to pay for the project, without asking the Federal Government for a penny, certainly the States should be permitted to do so without coming to Congress for an authorization.

Mr. JACKSON. Mr. President, will the Senator yield at that point?

Mr. KERR. I yield.

Mr. JACKSON. I am sure that Senators representing those States are men of good will and would not permit such a thing, but it would be possible for the Federal Government to get the "cats and dogs" authorized and to have to supply funds for them, while the States would undertake only the easier and more reimbursable projects.

Mr. KERR. But the Federal Government need not do unless it decides to do so at the time. The bill provides that notwithstanding anything in the compact, nothing in the law shall permit the expenditure of Federal money for a project except such as may be authorized by Congress at the time. If

Congress felt that the Federal Government was being mistreated, they could take the position that they would not authorize a project except on the basis of certain agreements between the compacting States.

Mr. JACKSON. What possible objection could there be to a stipulation that the State is not to undertake, even with State funds, a project which would have an impact or change or modify the overall comprehensive development as contemplated by the compact itself?

Mr. CLARK. Mr. President, will the Senator yield?

Mr. JACKSON. I might ask further, what is the definition of State funds? The commission which is to be set up is authorized to issue and sell revenue bonds. Would the proceeds from the revenue bonds represent State funds?

Mr. KERR. The Senator from Oklahoma believes that if a State wanted to sell revenue bonds for a project within a State on waters wholly within the State it should be permitted to do so and encouraged.

Mr. JACKSON. I agree. That is not my question. A commission is to be set up. It has the power to sell revenue bonds. Would the proceeds from the sale of those bonds be State funds under the amendment adopted by the committee?

Mr. KERR. I read "other than a project for which State-supplied funds only will be used."

Mr. JACKSON. The commission has power to issue revenue bonds. I believe there are some ambiguities in the provision as adopted by the Public Works Committee.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. KERR. This is the language the four compacting States want. This is the language the Senators from the four compacting States want. This is the language the Governors of the four compacting States want. This is the language that was approved by all of the executive agencies in the Federal Government.

Mr. CLARK. Not the authorizing language. I understood the agencies submitted 13 amendments.

Mr. KERR. They did not object to this one.

Mr. JACKSON. We did not have a report from the departments as to their position on the authorizing amendment. If the Senator states that they approved it, I most certainly will take his word for it.

Mr. KERR. This language is a limitation, a modification. It is not an extension of authority.

Mr. JACKSON. I am trying to be helpful.

Mr. KERR. The Senators from the affected States are here.

Mr. JACKSON. I am trying to protect, as we all are, the Federal Government's interest. I am raising the question that it is conceivable that under the amendment as it appears now the State could undertake given projects which could affect the Federal Government's interest in other projects which might be built wholly or in part with Federal funds.

Mr. KERR. Let me say this, and the Senator will advise me if I am incorrect. The only effect the Senator's amendment would have, as contrasted with the Public Works Committee language, is this. The amendment which is supported by the Senator from Washington would say that not even for a project on which only State-supplied funds could be used could be built unless it was authorized by the Federal Government, when the Federal Government was not putting even a penny into the project.

Mr. JACKSON. The point is, however, that we are dealing with a comprehensive multi-purpose, multi-State plan. If we use State funds to effect a comprehensive plan in which the Federal Government is to be a major contributor, I believe the Federal Government has a distinct interest.

Mr. CLARK. Mr. President, will the Senator yield?

Mr. KERR. I yield to the Senator from Pennsylvania.

Mr. CLARK. Let me say to my friend from Washington I believe it is of vital importance—and I think I speak for all eight Senators from the affected States—that we do not take away from the four States powers they now have and are presently exercising.

Mr. JACKSON. I am in complete agreement with that.

Mr. CLARK. I am afraid the Senator's language does take away those powers.

Mr. JACKSON. Let me read the language of the report, Report No. 1032, that accompanies our section.

Mr. CLARK. I would like to finish my statement first. The difficulty with striking the language which the Senator from Washington wishes to strike is that it would immediately bring to an end the projects presently under way between one or more States for which Federal support is not needed or wanted. Let me give the Senator one example. There is presently under way a development of the water resources of Brandywine Creek, which originates in Pennsylvania and flows through the State of Delaware into the Delaware River. If the language which the Senator proposes to strike is taken out of the bill, the development of Brandywine Creek could not proceed without the consent of Congress.

Mr. JACKSON. I should like to read to the Senator the language that we placed in our Interior Committee report, which was filed with the Senate yesterday.

The Interior Committee gave thorough consideration to the proposal for exemption from congressional authorization of projects to be built by a State, but concluded that the concept of "long-range, comprehensive basin-wide development" does not admit to exceptions and exemptions on a project-by-project basis. Rather, comprehensive development calls for the kind of impartial and objective consideration that Congress can best give. This view is not intended to be in any way in derogation of the objectivity and breadth of vision of the members of the commission. However, the commissioners, with the exception of the Federal appointee, will be officials of the individual States, and will be responsible for construction and operation, as well as policy planning.



Mr. CLARK. The language in the report is very interesting.

Mr. JACKSON. This is the language that goes with the language in the resolution as reported by the Interior Committee. The language that we put in our amendment is exactly like the original language of the Public Works Committee.

Mr. CLARK. I say this in all friendliness. In the judgment of the eight Senators from the four States involved, if this language is stricken, the compact is of no further interest to us.

Mr. JACKSON. Which language?

Mr. CLARK. The language which the Senator would strike.

Mr. JACKSON. Why is that?

Mr. CLARK. Because it means that every little project in any one of the four States planned to be built with State funds must first be approved by Congress.

Mr. JACKSON. If it is a part of a comprehensive development in the four States of the basin.

Mr. CLARK. We could not do anything in accordance with the comprehensive plan, and that includes projects already under way, without first coming down to Congress to get approval. There is a little creek that runs in front of my house, and my junior colleague from Pennsylvania lives near it, too, and if it were necessary to undertake a water pollution project in connection with it, if the Senator is successful in striking the language he proposes to strike, we would have to get an act of Congress to improve that little creek.

Mr. JACKSON. I am merely trying to give the Senate an opportunity to understand this matter. The Department of the Interior requested that a preference clause amendment be added. I think this was amendment designated "(t)" in the Department's report. There were many amendments offered by the Department, and the committee accepted all but the one requiring the preference provision. As I understand, the decision on the part of the Public Works Committee was that the preference clause should not be included because Congress would have opportunity to consider each individual authorization.

I should like to make this one point. It is possible under the bill as it now reads for the States to undertake projects for power production, separate from the projects where the Federal Government will have to contribute heavily, and thereby vitiate any possible attempt on the part of the Federal Government to impose that preference clause. I want the Senate to understand that. That is a definite possibility under the language now before the Senate.

Mr. SCOTT. Mr. President, will the Senator yield?

Mr. KERR. I will yield after I have made this statement. I wish to clarify this subject with quotations, one from the compact and one from the bill. Paragraph 3.8 of the compact reads:

3.8 Referral and review: No project having a substantial effect on the water resources of the basin shall hereafter be undertaken by any person, corporation or governmental authority unless it shall have been first sub-

mitted to and approved by the commission, subject to the provisions of sections 3.3 and 3.5. The commission shall approve a project whenever it finds and determines that such project would not substantially impair or conflict with the comprehensive plan and may modify and approve as modified, or may disapprove any such project whenever it finds and determines that the project would substantially impair or conflict with such plan. The commission shall provide by regulation for the procedure of submission, review and consideration of projects, and for its determinations pursuant to this section. Any determination of the commission hereunder shall be subject to judicial review in any court of competent jurisdiction.

A member of the compact commission shall be appointed by the President of the United States. In the bill before the Senate, on page 76, beginning with line 4, are these words. I think they amply protect the situation suggested by the Senator from Washington:

*Provided, That whenever a comprehensive plan, or any part or revision thereof, has been adopted with the concurrence of the member appointed by the President, the exercise of any powers conferred by law on any officer, agency or instrumentality of the United States with regard to water and related land resources in the Delaware River Basin shall not substantially conflict with any such portion of such comprehensive plan and the provisions of Section 3.8—*

Which is the one I read—

and Article 11 of the Compact shall be applicable to the extent necessary to avoid such substantial conflict: *Provided further, That whenever the President shall find and determine that the national interest so requires, he may suspend, modify or delete any provision of the comprehensive plan to the extent that it affects the exercise of any powers, rights, functions, or jurisdiction conferred by law on any officer, agency or instrumentality of the United States other than the Commission.*

I do not see how additional guarantees could be provided. I cannot conceive how they would be deleted.

Mr. JACKSON. I have listened carefully to the Senator's argument, but I do not see anything in the quotations from the text of the compact or the bill which would prevent any one of the four States from building a project that was solely for power, and a highly profitable one, leaving the other projects on flood control and irrigation—there is a provision for irrigation in the compact—

Mr. KERR. Power is one of the smallest elements involved in the compact. Further, if a State, in the exercise of the jurisdiction of its own water and by the expenditure of its own money, wishes to build a power project, the Senator from Oklahoma thinks it has the right to do so, and Congress should not pass an act which would deprive them of that right.

Mr. JACKSON. I would agree with that statement except if the State-constructed power project would have a direct relation to the other projects involved in the basin.

Mr. KERR. But all the States in the basin will have to agree.

Mr. SCOTT. I have a direct interest in the measure, as the Senator knows. I wondered if the Senator from Washington had considered the fact that this agency has the character of a Federal

agency as well as the character of a State agency. They both have responsibility. The bill has been worked out and worked over. The senior Senator from Pennsylvania [Mr. CLARK] has already stated that the elimination of this language, which has now gone through a very long process of consideration by both the Federal and State Governments and the Federal representatives of the States, in Congress, would work very great damage to the compact. I hope the Senator from Washington will not press his intention.

Mr. JACKSON. I am supporting the measure to approve the compact. After all, the Interior Committee moved with the utmost expedition to report it favorably yesterday.

Mr. SCOTT. That is appreciated.

Mr. JACKSON. It should be pointed out that the Federal Power Commission will be superseded in this area by the Basin Commission, so it is important that we understand just what we are doing.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a report on the compact measure, dated August 15, 1961, from the Secretary of the Interior to the chairman of the Committee on Interior and Insular Affairs, the distinguished Senator from New Mexico [Mr. ANDERSON].

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., August 15, 1961.  
Hon. CLINTON P. ANDERSON,  
Chairman, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR ANDERSON: This responds to your request for the views of this Department on H.J. Res. 225, a bill "to grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the United States and for related purposes."

In order to give your committee the benefit of the executive agencies' position on the bill before the end of the session, this Department has been authorized to make its report on behalf of all Federal executive agencies. The Federal executive agencies would not object to the enactment of H.J. Res. 225 with the amendments recommended in this report.

This legislation, without taking into account our proposed amendments, seeks to create unique governmental machinery to administer the water and related land resources of the Delaware Basin, to wit an interstate-Federal commission. This commission would be composed of Governors of Delaware, New Jersey, New York, and Pennsylvania, and one member appointed by the President of the United States. Each member would have a single vote, and in most instances majority vote would control. The duration of the compact would be 100 years. It would continue for additional periods of 100 years, unless a State legislature or Congress gave notice of termination between the 75th and 80th years.

The commission would operate as an agency and instrumentality of all participating States and of the Federal Government. The compact would mandate the commission to develop and effectuate plans, policies and projects relating to the water resources of the basin. It would grant also the commission sufficient power to control development of these resources. The commission would



be empowered to construct and operate its own projects and facilities, financing them through loans, grants or the issuance of bonds. It could establish standards of planning design and operation for all projects and facilities in the basin which affect its water resources. No project having a substantial effect on the basin's water resources could be undertaken by a private, local, State, or Federal authority without approval of the commission. Its areas of control and development would include water supply, pollution control, flood protection, watershed management, recreation, hydroelectric power, and the regulation of withdrawals and diversions of water. In all these fields, the commission could cooperate in resource development and management with all other governmental agencies.

Unlike previous interstate river basin compacts, this one would bind the United States on generally the same basis as the participating States. The Federal Government would, however, be given special standing by section 1.4 of the compact which provides that adoption of the compact would not relinquish the functions, powers, or duties of Congress with respect to control of navigable waters, and that Congress could withdraw the Federal Government as a party or revise or modify the terms under which it would remain a party to the compact. Subject to this special provision, the United States would be controlled by the State-dominated commission in future Federal activities in the basin. No Federal expenditure or commitment for construction, acquisition, or operation of a project or facility affecting the basin water resources would be deemed authorized until it was first included in the commission's comprehensive plan.

As a Federal agency, the commission could be outside the jurisdiction of many Federal regulatory agencies. The repealer provision would amend all Federal acts or parts of acts inconsistent with any provision of the compact to the extent necessary to carry out the compact's provisions. In effect, the compact would substitute the commission for the Federal and State Governments in planning, operating, controlling, and regulating the water resources of the Delaware River.

The breadth of the powers, both State and Federal, which would be conferred upon the compact commission, its distribution of voting strength and the difficulties inherent in coordination of the commission's authority with national water resource policies developed by Congress raise serious questions as to the efficacy of the compact and as to its compatibility with appropriate State-Federal relationships.

On the other hand, for more than 25 years efforts to reach agreement on natural resource development in the Delaware Basin have met with failure or, at most, only partial success. Previous suggested compacts have failed of passage in one or more of the State legislatures involved. The present compact, however, has been approved in all 4 States and now awaits only congressional consent and approval of Federal participation. The States of the basin, by voting their approval, have evinced their strong desire to proceed under the pattern of the proposed compact.

Because of the urgent need for flood control and the immediate need for recreational and industrial planning and development in the Delaware River Basin, Federal representatives have met over the past 4 months with representatives of the four State Governors in an attempt to formulate mutually acceptable conditions which could be recommended to the Congress as a basis for Federal participation and enactment of consent legislation.

These discussions have resulted in agreement on proposed amendments to H.J. Res. 225 which would provide the minimum nec-

essary protection of Federal interests. The only item on which agreement could not be reached was the applicability of the preference clause in connection with the power dispositions by the commission.

Even with these proposed amendments, the bill would not be acceptable were it not for the unique conditions and history in the Delaware Basin. We continue to hold the view that the Water Resources Planning Act of 1961 which the President proposed to the Congress in his message of July 13, 1961, provides generally a better method of Federal-State cooperation in planning for river basin development. Inadequacies of the compact, even with the amendments proposed, demonstrate the need for such legislation. Nevertheless we have reached the conclusion that the urgent needs for resource planning and development in this area of mounting congestion outweigh the negative features of the compact. We do not object to this plan for resource development in the Delaware Basin under the particular conditions set out in this report. It should, however, establish no precedent in our search for orderly maximum development of this Nation's water resources.

The amendments proposed, with the reasons for each, are attached hereto as an appendix to this report.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Copies of this report are being distributed to the Federal agencies involved and they are invited to comment directly to your committee if additional comments are necessary.

Sincerely yours,

STEWART L. UDALL,  
*Secretary of the Interior.*

Enclosure.

#### ADDENDUM TO REPORT ON HOUSE JOINT RESOLUTION 225

Pursuant to our report on House Joint Resolution 225, we recommend the following amendments to the bill. Explanatory material is inserted after each subsection of the proposed amendment. While some of the subsections in the proposed amendment are identical to certain provisions of section 15.1 as it was enacted in the House, all are the result of our discussions with representatives of the Delaware Basin States, as outlined in our report. For purposes of clarity, we are including comments on all amendments deriving from these discussions.

We propose that part II, article 15 of the bill be deleted and the following part II, article 15 be substituted in lieu thereof:

#### "PART II, ARTICLE 15: RESERVATIONS

"15.1 In the exercise of the powers reserved to the Congress, pursuant to section 1.4 of the compact, the consent to and participation in the compact by the United States is subject to the following conditions and reservations:

"(a) No provision of section 3.7 of the compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the compact; or to impose any charges with respect to commercial navigation within the basin, jurisdiction over which is reserved to the Federal Government: *Provided*, That this paragraph shall be applicable to the extent not inconsistent with section 1.4 of this compact."

The purpose of this amendment is merely to clarify the intent of section 3.7 of the compact.

"(b) Nothing contained in the compact shall be deemed to restrict the executive powers of the President in the event of a national emergency."

This amendment would assure that the President's powers in the event of national emergency are not restricted by the compact,

"(c) Notwithstanding the provisions of Article 2, section 2.2 of the compact, the member of the commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President."

Section 2.2 now provides that the member appointed by the President serves during the term of office of the President. This amendment would place the tenure of the Federal member on the same basis as that which prevails generally for principal executives in the Federal service.

"(d) Nothing contained in the compact shall be construed as impairing or in any manner affecting the applicability to all Federal funds budgeted and appropriated for use by the Commission, of such authority over budgetary and appropriation matters as the President and Congress may have with respect to agencies in the executive branch of the Federal Government."

This amendment would assure that no Federal funds are made available to the Commission unless they have been budgeted and appropriated in accordance with general law and standard Federal procedures.

"(e) Except to the same extent that State bonds are or may continue to be free or exempt from Federal taxation under the internal revenue laws, of the United States, nothing contained in the compact shall be construed as freeing or exempting from internal revenue taxation in any manner whatsoever any bonds issued by the Commission, their transfer, or the income therefrom (including any profits made on the sale thereon)."

Section 12.8 of the compact grants a tax exemption for bonds of the Commission and interest thereon for the life of the compact. This amendment would place the Commission bonds on a par with all other State bonds as respects Federal taxation.

"(f) Nothing contained in the compact shall be construed to obligate the United States legally or morally to pay the principal or interest on any bonds issued by the Delaware River Basin Commission."

Section 12.20 of the compact already states that the parties will provide only such capital funds as are authorized by their respective statutes. This amendment would merely assure that no legal or moral obligation to pay principal or interest on bonds could be inferred from other language of the compact.

"(g) Notwithstanding the provisions of section 11.5 or any other provision of the Compact, the furnishing of technical services to the Commission by agencies of the executive branch of the Government of the United States is pledged only to the extent that the respective agencies shall from time to time agree thereto or to the extent that the President may from time to time direct such agencies to perform such services for the Commission. Nothing in the Compact shall be deemed to require the United States to furnish administrative services or facilities for carrying out functions of the Commission except to the extent that the President may direct."

Section 11.5 of the Compact would pledge each signatory party to provide technical services (within the limits of available appropriations) to the Commission. This amendment would assure retention by the President and respective Federal agencies of control over the furnishing of such services, and would prevent interpretation of the Compact to require the furnishing of administrative services by Federal agencies.

"(h) All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are undertaken by the Commission or are financially assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the locality so determined by



the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than 1½ times his basic rate of pay for all hours worked in any workweek in excess of 8 hours in any workday or 40 hours in any workweek, as the case may be. A provision stating the minimum wages thus determined and the requirement that overtime be paid as above provided shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project. The Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards specified in this provision, the supervisory, investigatory and other authority and functions set forth in Reorganization Plan No. 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z-15), and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c))."

Since the Commission would be a Federal instrumentality, this amendment would apply Federal labor standards to its contracting operations.

"(i) Contracts for the manufacture or furnishing of materials, supplies, articles, and equipment with the Commission which are in excess of \$10,000 shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.)."

This amendment is similar in purpose to that of paragraph (h). The Walsh-Healey Act provides for labor standards in connection with supply contracts.

"(j) Notwithstanding any other provision of this act, nothing contained in this act or in the compact shall be construed as superseding or limiting the functions, under any other law, of the Secretary of Health, Education, and Welfare or of any other officer or agency of the United States, relating to water pollution: *Provided*, That the exercise of such functions shall not limit the authority of the Commission to control, prevent, or abate water pollution."

The interaction of article 5 relating to water pollution and the repealer clause of the compact with present Federal laws for abatement of pollution raised the possibility that Federal powers in this area might in some way be limited by the compact. This amendment would make certain that existing Federal authority to abate or assist in the abatement of water pollution would not be affected by the compact.

"(k) the provisions of section 8.4 of article 8 of the compact shall not be construed to apply to facilities operated pursuant to any other Federal law."

Section 8.4 of the compact would empower the Commission to adopt regulations for the award of private concession contracts in connection with recreation facilities. This amendment would prevent application of Commission regulations to concessions awarded in connection with the operation of recreation facilities by other Federal agencies.

"(l) For purposes of the act of June 25, 1948, 62 Stat. 982, as amended (title 28, United States Code, chapter 171, and sections 1346(b) and 240(b) and the act of March 3, 1887, 24 Stat. 505, as amended (title 28, United States Code, sections 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412, 2501), and the act of June 11, 1946, 60 Stat. 237, as amended (title 5, United States Code, sections 1001 and 1011, title 50 App. United States Code, section 1900), the Commission shall not be considered a Federal agency."

Because the Commission would be a Federal agency, this amendment is necessary to exempt it from the Federal Tort Claims Act, Tucker Act and Administrative Procedures Act.

"(m) The officers and employees of the Commission (other than the United States

member, alternate United States member, and advisors, and personnel employed by the United States member under direct Federal appropriation) shall not be deemed to be, for any purpose, officers or employees of the United States or to become entitled at any time by reason of employment by the Commission to any compensation or benefit payable or made available by the United States solely and directly to its officers or employees."

The status of the Commission as a Federal agency also necessitates this amendment to provide that employees of the Commission are not deemed employees of the United States or entitled to any compensation or benefits available only to such employees.

"(n) Neither the compact nor this act shall be deemed to enlarge the authority of any Federal agency other than the Commission to participate in or to provide funds for projects or activities in the Delaware River Basin."

This amendment is designed to assure that congressional and executive direction as to activities of Federal agencies in the basin is preserved.

"(o) The U.S. district courts shall have original jurisdiction of all cases or controversies arising under the compact, and this act and any case or controversy so arising initiated in a State court shall be removable to the appropriate U.S. district court in the manner provided by section 1446, title 28, United States Code. Nothing contained in the compact or elsewhere in this act shall be construed as a waiver by the United States of its immunity from suit."

The compact would allow court appeals from many decisions of the Commission. This amendment would establish Federal court jurisdiction over cases arising under the compact, and would assure that any such cases initiated in a State court could be removed to a Federal court.

"(p) The right to alter, amend, or repeal this act is hereby expressly reserved. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by the Delaware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee."

The first sentence of this amendment is a standard provision to enable Congress to alter, amend, or repeal this act at any time in the future. This sentence would also clarify any ambiguities in the language of section 1.4 of the compact. That section would allow Congress to modify the terms under which it may remain a party to the compact "by amendment, repeal, or modification of any Federal statute applicable thereto." The proposed amendment would assure that this language is not construed to apply only to existing Federal statutes and allows Congress full latitude in future legislation. The second sentence of the amendment was suggested by the Judiciary Committee of the House of Representatives.

"(q) The provisions of sections 2.4 and 2.6 of article 2 of the Compact notwithstanding, the member and alternate member appointed by the President and advisor there referred to may be paid compensation by the United States, such compensation to be fixed by the President at the rates which he shall deem to prevail in respect to comparable officers in the executive branch."

Sections 2.4 and 2.6 of the compact provide that the members of the Commission and their alternates and advisors shall serve without compensation. Since State Governors represent the States on the Commission and other State officers may serve as alternates and advisors, this provision may be appropriate for them, but in the event that the Federal member or his alternate or ad-

viser holds no other Federal office obviously compensation would be required.

"(r) 1. Nothing contained in this Act or in the Compact shall impair or affect the constitutional authority of the United States or any of its powers, rights, functions, or jurisdiction under other existing or future legislation in and over the area or waters which are the subject of the Compact including projects of the Commission: *Provided*, That whenever a comprehensive plan, or any part or revision thereof, has been adopted with the concurrence of the member appointed by the President, the exercise of any powers conferred by law on any officer, agency, or instrumentality of the United States with regard to water and related land resources in the Delaware River Basin shall not substantially conflict with any such portion of such comprehensive plan and the provisions of section 3.8 and article 11 of the Compact shall be applicable to the extent necessary to avoid such substantial conflict: *Provided further*, That whenever the President shall find and determine that the national interest so requires, he may suspend, modify, or delete any provision of the comprehensive plan to the extent that it affects the exercise of any powers, rights, functions, or jurisdiction conferred by law on any officer, agency, or instrumentality of the United States other than the Commission. Such action shall be taken by executive order in which such finding and determination shall be set forth.

"2. For the purposes of paragraph 1 hereof, concurrence by the member appointed by the President shall be presumed unless within 60 days after notice to him of adoption of the comprehensive plan, or any part or revision thereof, he shall file with the Commission notice of his nonconcurrence. Each concurrence of the member appointed by the President in the adoption of the comprehensive plan or any part or revision thereof may be withdrawn by notice filed with the Commission at any time between the first and 60th day of the sixth year after the initial adoption of the comprehensive plan and of every sixth year thereafter."

In the absence of this proposed amendment, the compact would exempt the Commission from much of the regulatory control of Federal agencies, and would require Commission approval for any Federal or federally licensed project developing the water or related land resources of the basin. This amendment would provide that the licensing and regulatory authorities of the Federal agencies and the powers of other Federal agencies to act with regard to projects in the basin would be preserved, except that where the Federal member concurred in the adoption of the comprehensive plan or any part or revisions thereof, the exercise of any of these powers by any Federal agency could not substantially conflict with that portion of the comprehensive plan. It would also provide that the Federal member could review his concurrences every 6 years. As a further safeguard the President would have the power at any time the national interest so required to suspend, modify, or delete any provision of the comprehensive plan insofar as it might affect the exercise of any Federal powers.

"(s) In the event that any phrase, clause, sentence, or provision of section 1.4 of article 1 of the Compact, is declared to be unconstitutional under the constitution of any of the signatory parties, or the applicability thereof to any signatory party, agency, or person is held invalid by a court of last resort of competent jurisdiction, the United States shall cease to be a party to the Compact, except to the extent that the President deems remaining a party necessary and proper to protect the national interest, and shall cease to be bound by the terms thereof."



All these amendments in this report are proposed to be made pursuant to the provision of section 1.4 of the compact. Ordinarily, if any party to an interstate compact conditions the terms of his participation, his consent is void unless these conditions are approved by the other parties. Here, however, in section 1.4, the other parties to this compact have agreed in advance to allow the Federal Government to condition the terms of its participation. If this section 1.4 were declared null and void, all Federal conditions would be void. In the absence of these conditions Federal interests would not be adequately protected. This amendment would assure that the Federal Government could withdraw in the event that section 1.4 was invalidated.

"(t) In making sales or leases of hydroelectric power generated pursuant to article 9 of the compact, preference shall be given to public bodies and cooperatives so defined in section 3 of chapter 720 of the Act of August 20, 1937, 50 Stat. 733 (title 16, United States Code, section 832b)."

The Commission is by section 2.1 of the compact, an agency and instrumentality of the Federal Government. It has been national policy since 1906 to provide for preference in the sale of power developed under Federal auspices. Particularly should such a requirement apply when substantial Federal funds are involved.

"(u) All acts or parts of acts inconsistent with the provisions of this Act are hereby amended for the purpose of this Act to the extent necessary to carry out the provisions of this Act: *Provided, however,* That no act of the Commission shall have the effect of repealing, modifying, or amending any Federal law."

This amendment is similar to section 15.1 of the bill, but would add a proviso to assure that, in the exercise of the broad powers granted it by the compact, the Commission could not effect the repeal or modification of any Federal law. Also in the first line of the paragraph, the words "any provision" would be changed to "the provisions" to assure that any determination of inconsistency take into account the effect of these reservations upon the body of the compact.

#### EFFECTUATION

"15.2(a) The President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the compact and the initial organization and operation of the Commission thereunder."

This provision is now incorporated in S. 856 as section 15.2.

"(b) Executive departments and other agencies of the executive branch of the Federal Government shall cooperate with and furnish appropriate assistance to the U.S. member. Such assistance shall include the furnishing of services and facilities and may include the detailing of personnel to the U.S. member. Appropriations are hereby authorized as necessary for the carrying out of the functions of the U.S. member, including appropriations for the employment of personnel by the U.S. member."

This amendment is recommended to insure full cooperation between the Federal member of the Commission and the Federal agencies.

#### EFFECTIVE DATE

"15.3 This Act shall take effect immediately."

Mr. JACKSON. Mr. President, the U.S. Government will have only one member on the Commission. He can be outvoted. I think we should understand fully what we are doing. I feel there is a serious responsibility, in connection with the interest of the Federal Government, to try to protect power rights in the area, which could be affected by the failure to include language which was

considered and adopted in the Senate Committee on Interior and Insular Affairs. There can be honest differences of opinion.

If the Senator from Oklahoma can assure the Senate that, in his judgment, or from his interpretation of the bill, a project undertaken by the State or the States in the basin which would have a direct impact on the comprehensive development of the basin as a whole could not be used as a means of defeating the right of Congress to consider the preference clause, then I would feel better about it. But this is what disturbed all the members of the Interior Committee when we considered the question.

Mr. KERR. That is the opinion of the Senator from Oklahoma, and I think it is the opinion of every author of the bill.

Mr. JACKSON. Mr. President, I do not oppose the approval of the compact resolution now before the Senate. My only concern was with reference to this specific amendment, in the language to which the Senate Committee on Public Works apparently agreed in the first instance. The modification it now reads must have occurred later as the result of action on the part of the committee. I think the initial wording of the amendment of Committee on Public Works is the way the provision should read.

Mr. KERR. The Senator from Oklahoma presided at all the hearings of the Committee on Public Works on the bill. If any such concurrence ever took place, it was without the knowledge of the Senator from Oklahoma, and he will not admit on the floor of the Senate that any such possibility exists.

Mr. JACKSON. However, the language as submitted to us in the Committee on Interior and Insular Affairs had the wording, without the exception that appears in section 15.1(a) of House Joint Resolution 225 as we reported it. The original of the typewritten amendment which was submitted to us from the Committee on Public Works included in pencil the added language which contains the exception.

Mr. KERR. The amendment we are talking about, which contains the language the Senator from Washington wanted to delete, was the language of the Senator from Oklahoma and was concurred in by the Senators from all the affected States, who were all the authors of the bill.

Mr. President, I ask the approval of the bill before the Senate.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 856) was ordered to be engrossed for a third reading, and was read the third time.

Mr. KERR. Mr. President, has the bill been passed?

The PRESIDING OFFICER. The bill has been read the third time. The question now is, Shall it pass?

The bill (S. 856) was passed.

Mr. KERR. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. CLARK. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. KERR. Mr. President, the Committee on Public Works had before it S. 856, while the Committee on the Judiciary and the Committee on Interior and Insular Affairs had before them House Joint Resolution 225. The bill and the joint resolution are similar.

I ask unanimous consent for the present consideration of House Joint Resolution 225.

The Presiding Officer laid before the Senate the joint resolution (H.J. Res. 225) to grant the consent of Congress to the Delaware River Basin compact and to enter into such compact on behalf of the United States, and for related purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of House Joint Resolution 225?

There being no objection, the Senate proceeded to consider the joint resolution, which had been reported from the Committee on the Judiciary with amendments, and subsequently reported from the Committee on Interior and Insular Affairs with additional amendments.

Mr. KERR. Mr. President, I move to strike out all after the enacting clause of House Joint Resolution 225 and to insert in lieu thereof the language of S. 856, as amended.

The PRESIDING OFFICER. The question on agreeing to the motion of the Senator from Oklahoma.

The motion was agreed to.

The PRESIDING OFFICER. The joint resolution is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the joint resolution.

The amendment was ordered to be engrossed, and the joint resolution to be read a third time.

The joint resolution (H.J. Res. 225) was read the third time, and passed.

Mr. KERR. Mr. President, I move that the Senate reconsider the vote by which the joint resolution was passed.

Mr. CLARK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The preamble was agreed to.

The PRESIDING OFFICER. Without objection, S. 856 will be indefinitely postponed.

Mr. CLARK. Mr. President, has the House joint resolution, as amended, now been passed?

The PRESIDING OFFICER. The House joint resolution, as amended, has been passed.

#### ELECTIONS IN THE DISTRICT OF COLUMBIA

Mr. BIBLE. Mr. President, I move that the Senate resume the consideration of Calendar No. 851, House bill 8444.

The motion was agreed to; and the Senate resumed the consideration of the bill (H.R. 8444) to amend the act of



August 12, 1955, relating to elections in the District of Columbia.

The PRESIDING OFFICER (Mr. METCALF in the chair). The question is on agreeing to the committee amendment.

Mr. BIBLE. Mr. President, the purpose of this bill is to amend Public Law 376 of the 84th Congress (69 Stat. 699), an act regulating the election of delegates representing the District of Columbia to national political conventions and other purposes, to provide in addition for the election of electors for President and Vice President of the United States.

The proposed legislation also includes certain amendments not directly connected with the new function, but which have been recommended as a result of experience and review of the operation of the basic act permitting residents of the District of Columbia to vote for delegates to the national political conventions.

The enactment of H.R. 8444, as amended by your committee, would:

First. Establish at age 18 the minimum age for qualified voters in the District.

Second. Abolish permanent registration and require all qualified voters to register in the year in which the presidential election is held.

Third. Liberalize requirements relating to absentee registering and voting.

Fourth. Establish the procedures for presidential electors to be selected in two ways: (a) By certification of the executive committee recognized by the national committee of a major political party, that is, a party which has had its candidates for electors of President and Vice President on the ballot in each of five States in the last preceding election, and (b) any other party may have its candidates for electors submitted to the Board of Elections by presenting a petition to the Board signed by at least 5 percent of the registered qualified voters of the District of Columbia as of July 1 immediately preceding the election.

Fifth. Require a person elected as an elector of President and Vice President, to take an oath or solemnly affirm that he or she will vote for the candidate of the party he has been nominated to represent; and that it shall be his duty to vote in such manner in the electoral college.

Sixth. Provide that only the names of the candidates of each political party for President and Vice President shall be placed on the ballot; the names of electors must not be on the ballot.

Seventh. Make provision for the appointment of a substitute by the appropriate party committee for any candidate for elector who dies, resigns or becomes unable to serve.

This legislation will implement the 23d amendment which was initiated by the joint resolution of the 86th Congress on January 6, 1960. This amendment, certified on April 3, 1961, as a part of the Constitution of the United States, provides:

SECTION 1. The District constituting the seat of government of the United States, shall appoint in such manner as the Congress may direct:

A number of electors of President and Vice President equal to the whole number

of Senators and Representatives in Congress to which the District would be entitled if it were a State, but in no event more than the least populous State; they shall be in addition to those appointed by the States, but they shall be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State; and they shall meet in the District and perform such duties as provided by the 12th article of amendment.

SEC. 2. The Congress shall have power to enforce this article by appropriate legislation.

The dispatch and determination with which the various States ratified the 23d amendment demonstrate a keen awareness on the part of their citizens, that the residents of the District of Columbia should be provided the cherished right to vote in a national election. Their responsive action is, indeed, a challenge to the Congress to enact an election bill that will be looked upon as a model act.

Your committee in its consideration of the provisions of the bill was essentially concerned with eliminating unreasonable restrictions on voting procedures. Wherever possible the committee strived to adopt procedures that will allow the greatest number of responsible and qualified voters to cast their ballots.

It should be noted that the full committee conducted public hearings on the Senate version of this legislation, S. 1883, on August 4, 1961, and the suggestions and recommendations of all witnesses have been given appropriate consideration by the committee.

The bill amends the 21-year voting age requirement in existing law so that an individual to be eligible to vote must be at least 18 years of age and must have resided in the District of Columbia without claiming voting residence elsewhere for at least 1 year as of the date of the election.

Your committee in adopting the 18 minimum age was following the lead that other States have taken in providing our young people with the right to vote in the national elections. The State of Hawaii has a 20-year minimum; Alaska has 19 years; and Georgia and Kentucky have designated their minimum voting age at 18 years. Forty-six of the States have retained the age limit at 21 years.

The committee in recommending the 18-year minimum age for the District was fully aware of the arguments, pro and con, that have centered about this issue. However, it was felt that the Sputnik, Atlas, and Redstone era properly ushered in a new and greater responsibility for our young men and women. Through the medium of television, radio, magazines, and newspapers, our young people of today are much better informed than at any time in the Nation's history in both domestic and international problems and issues surrounding a race for the presidency and vice presidency. During this session of Congress, the greater and more intensified educational advantages for our youth have been detected looking for greater assurances that they have the tools to meet the challenge of this age of space.

The very strength and vigor of America's democratic heritage are dependent upon our young people being integrated

into our democratic processes by being allowed to participate at an early date commensurate with their abilities.

It is true that America's 18-year-olds do think and act for themselves. We must permit them to play an active part in the Government at the earliest possible time. There is no substitute for trust and responsibility to enrich the desire for better and more effective citizenship. Accordingly, it is the view of the committee that the voting minimum age should be set at 18 years.

The committee made no change in the 1-year residency voting requirement in existing law. This period of residency was not viewed as causing any unreasonable limitation on the voting requirements for the District. The committee was informed that 35 States follow the 1-year residency requirement; 12 States require 6 months; and 3 States provide for a residency requirement of 2 years.

The bill also abolishes permanent registration and requires that each individual, otherwise qualified, must register in the year in which election is held.

The committee took a strong view that the election provisions relating to absentee balloting requirements should be liberalized to provide maximum opportunity for absentee and physically incapacitated persons to register and vote.

In this regard, the committee was informed that 48 States provide in some form for absentee voting.

In this bill, provision is made for the Election Board, as it deems necessary, to make regulations permitting qualified persons for the purpose of voting in any election held pursuant to this act, to register at times when such persons are temporarily absent from the District, or, in the case of persons not absent from the District but who are physically unable to appear personally at an official registration place, to register in the manner prescribed in such regulation. In addition, the bill contains a provision that requires the Election Board to include in regulations provisions permitting voting for electors of President and Vice President by any registered voter who is absent from the District or who, because of his physical condition, is unable to vote in person at the polling place in his voting precinct on election day.

The committee thought it most desirable to include as part of the bill, the Federal Voting Assistance Act of 1955. Through this measure the Department of Defense can administer more effectively the absentee voting of District of Columbia residents who are in the Armed Forces or who come within one of the categories defined in the Voting Assistance Act. It was reported to the committee that almost 40 percent of the eligible personnel of the Armed Forces cast a ballot in the last elections. Accordingly, there is ample reason to include this act as another means of broadening absentee balloting.

In connection with voter registration, the bill provides that the registry shall be closed 45 days both before a primary and a regular election to permit adequate time for the Election Board to







Increases by 419 the number of positions in grades GS-18, GS-17, and GS-16 which will be available to the Civil Service Commission for distribution to the various departments and agencies, of which 100 are to be held in reserve for use only upon determination by the President of their initial need. Provides for an increase of 29 positions in GS-18, 102 in GS-17, and 188 in GS-16.

Increases by 259 the number of Public Law 313 positions (\$12,500 to \$19,000) the heads of departments and agencies are authorized to establish, including 3 (from 15 to 18) for this department, 3 (from 5 to 8) for Interior, 3 (from 10 to 13) for HEW, and 3 (from 25 to 29) for Commerce.

The Armed Services Committee reported with amendments H. R. 8765, to amend and clarify the reemployment provisions of the Universal Military Training and Services Act (S. Rept. 1070). p. 18522

1. EDUCATION. The Labor and Public Welfare Committee reported with amendments S. 1241, to authorize Federal assistance to institutions of higher education in financing the construction and improvement of facilities (S. Rept. 1072). p. 18522
2. MINERALS. Passed without amendment H. R. 2924, to repeal an act extending the time in which to file claims and institute adverse suits against certain mineral entries in Alaska. This bill will now be sent to the President. p. 18510  
The Interior and Insular Affairs Committee submitted a supplemental report on S. 1747, to stabilize the mining of lead and zinc in the U. S. (S. Rept. 1073). p. 18522
3. FOOD DISTRIBUTION. Sen. Bennett referred to the "fantastic increase in the number of people getting free food from the Federal Government," stated that the "laxness of the agencies administering this program and the willingness of the administration to hand out commodities on a grandiose scale without regard to need, are a national disgrace," and inserted an article on this matter. pp. 18450-2
4. WHEAT. The names of Sens. Yarborough and Jackson were added as cosponsors of S. 2535, to amend the Agricultural Adjustment Act of 1938 so as to establish a marketing program for wheat. p. 18402
5. TRANSPORTATION. Sen. Morton was excused from serving as a conferee on H. R. 6775, to authorize dual rates for steamship conferences. p. 18402
6. FOOD AND DRUG. Received from GAO a report on the review of the enforcement and certification activities of the Food and Drug Administration. p. 18400

#### HOUSE - SEPT. 15

7. APPROPRIATIONS. By a vote of 218 to 15, passed with amendments H. R. 9169, the supplemental appropriation bill. On a point of order by Rep. Thomas, deleted from the bill \$168,000,000 for the Area Redevelopment Administration. pp. 18531-45  
Conferees were appointed on H. R. 9033, the foreign aid appropriation bill. p. 18558  
Conferees were appointed on H. R. 8302, the military construction appropriation bill. Senate conferees have already been appointed. p. 18573  
Received the conference report on H. R. 8072, the D. C. appropriation bill (H. Rept. 1195). pp. 18592-3  
Rep. Cannon inserted a table showing the status of all appropriation bills in this session of Congress. pp. 18573-5

18. FARM LABOR. Received the conference report on H. R. 2010, to extend the Mexican farm labor program (H. Rept. 1198) (pp. 18577-8). Earlier, by a vote of 243 to 135, agreed to send this bill to conference (pp. 18552-7).
19. CULTURAL EXCHANGE. Received the conference report on H. R. 8666, to provide for the improvement and strengthening of the international relations of the United States by promoting better mutual understanding among the peoples of the world through educational and cultural exchanges (H. Rept. 1197). pp. 18558-63
20. FOREIGN TRADE. Passed as reported H. R. 8465, to prohibit the shipment in interstate or foreign commerce of articles imported into the United States from Cuba. pp. 18527-31
21. SMALL BUSINESS. Agreed to the conference report on H. R. 8762, to amend the Small Business Act to increase the amount available for regular business loans thereunder (pp. 18546-8). This bill will now be sent to the President.
22. POSTAL RATES. Began debate on H. R. 7927, to adjust postal rates. pp. 18564-73
23. LANDS. Received from the Interior Department a proposed bill "to repeal obsolete laws relating to military bounty land warrants and to provide for cancellation of recorded warrants"; to Interior and Insular Affairs Committee. p. 18594
24. POULTRY. Rep. Landrum spoke in favor of poultry legislation and inserted a proposed amendment to Federal legislation. pp. 18575-7
25. LEGISLATIVE ACCOMPLISHMENTS. Rep. Albert inserted a statement, "Summation of Legislative Accomplishments." pp. 18586-7

HOUSE - SEPT. 16

26. APPROPRIATIONS. Both Houses agreed to the conference report on H. R. 8072, the D. C. appropriation bill, and acted on amendments in disagreement. This bill will now be sent to the President. pp. 18600-1, 18660-1
27. FARM LABOR. Agreed to the conference report on H. R. 2010, to extend the Mexican farm labor program. pp. 18601-7
28. CULTURAL EXCHANGE. Agreed to the conference report on H. R. 8666, to provide for the improvement and strengthening of the international relations of the U. S. by promoting better mutual understanding among the peoples of the world through educational and cultural exchanges (pp. 18600-1). This bill will now be sent to the President.
29. PEACE CORPS. Rep. James C. Davis objected to sending H. R. 7500, to provide for a Peace Corps, to conference. p. 18607
30. COMPACTS. Agreed to the Senate amendments to H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin compact and to enter into such compact on behalf of the U. S. This bill will now be sent to the President. pp. 18607-17
31. PERSONNEL. As reported (see Digest 159), H. R. 7377, to increase the limitation on the number of supergrade and high-level scientific positions, includes provisions as follows:



in Texas and Arkansas. But this is not the case in the State of California, where braceros on the food farms doing piece-work earn \$1 an hour or better. Local domestic help earns from 35 cents to 40 cents an hour in Texas and Arkansas. This bracero program is not a food program, it is a cotton program. In the State of California, Mexican braceros and domestic workers are being paid \$1 an hour. But this proposed legislation regarding prevailing wages in the State or Nation as a minimum wage does not affect them.

Mr. Speaker, I am sorry that this body has been denied the right to pass the McCarthy amendment, which would have provided a reasonable level of wages so that the farmworkers would have reasonable purchasing power in the States of Arkansas and Texas and in the other States where wage conditions are so depressed, and where domestic help and braceros do not receive a decent wage.

Mr. Speaker, this bill is wrong. This program is un-Christian and immoral. It allows people to be used and allows their labor to be exploited at wages that are very depressed and very unfair. I say that when this bill is passed, it will subsidize in yet another way the cotton industry in America, and everyone knows that we have a surplus of cotton right now and we also know that the cotton industry is already getting a subsidy from the Government.

Mr. Speaker, this conference report, despite its good features, is bad on the whole. The bill is bad and this is a bad program which should come to a very speedy end. While I recognize the need of the American farmers to obtain labor, this need does not justify exploitation of Mexican workers under intolerable living conditions and low wages. Simple justice requires that we do not permit mankind and the worker to be used and abused. I trust that this conference report is rejected and we shall consider the bracero program next year.

Mr. POAGE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. SISK].

Mr. SISK. Mr. Speaker, I think there is a principle involved here. I have always supported minimum wages for the workers of America. I said in debate sometime earlier in the session, I would support a minimum wage for agriculture. I realize many people would oppose that, but the principle involved here is that we are being asked under the proposal of the other body to delegate our jurisdiction over this matter and to turn over to the Secretary of Labor the right to set a minimum wage for agriculture. If the House of Representatives desires to set up a minimum wage program for our farmworkers of America, then, as I said before, I will support adequate and proper legislation to do that very thing. I am concerned about the plight of a great many of our agricultural workers and of our migrant people. But, certainly, I would plead with my colleagues that this is not the way to do it. What we are actually being asked to do or were asked to do by the action of the other body is to delegate to the executive

branch of the Government the right to determine, first, the amount of wage which they should receive, and then to set it as a minimum. I do not believe the Members of the Congress want to legislate in that way. That is the reason I hope this conference report will be adopted and, then, to those of you who are pleading for an improvement in the living conditions and in the wage standards for the migrant workers of our country, I say, let us approach it in a proper way with legislation which will provide for that, but not to give away our own jurisdiction over this subject to some Secretary in the executive branch.

Mr. Speaker, I think the conferees on this bill have done an excellent job. I appreciate the fact that the conferees on the part of the House in accepting some of the amendments of the other body, actually, were hurting themselves and hurting the operation of the program in their area. As a Representative from the State of California, I want to express to our conferees my deep appreciation, because I think that some of the Senate amendments were good. In fact, at least one of them was an amendment which I supported here on the floor of the House. I want to pay tribute to the gentlemen on the outstanding job that they have done, and I hope the conference report will be adopted.

The SPEAKER pro tempore. The question is on the adoption of the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COAD. Mr. Speaker, on this I demand the yeas and nays.

The SPEAKER pro tempore. Members in favor of taking the vote by the yeas and nays will rise and remain standing until counted.

Twenty-four Members have arisen, not a sufficient number.

The yeas and nays were refused.

The conference report was agreed to. A motion to reconsider was laid on the table.

#### THE HONORABLE SAM RAYBURN

(Mr. IKARD of Texas asked and was given permission to extend his remarks at this point in the RECORD, and to include an article.)

Mr. IKARD. Mr. Speaker, 21 years ago today, the House of Representatives elected a new Speaker of the House. SAM RAYBURN, of Texas, was chosen by the Members of the House to preside over its deliberations.

Now, in 1961, after his 21 years of almost continuous service in the Speaker's chair, and 55 years of public service, we pay tribute to our beloved "Mr. SAM." He is truly the greatest statesman of them all, and has the love and respect of not only the Members of the House of Representatives where he has presided so superbly for so many years, but the love and respect of the entire Nation.

On September 26, 1961, the Texas-Oklahoma Fair held annually in the district which I represent is honoring this great American statesman and fellow

Texan on "Sam Rayburn Day." In this connection, I wish to insert into the RECORD an editorial on the subject from the Wichita Falls Record News, as I think this editorial expresses the sentiment of us all at this time.

[From the Wichita Falls Record News, Sept. 8, 1961]

#### HONOR SAM RAYBURN

One of the most appropriate things the Texas-Oklahoma Fair at Iowa Park ever did was to dedicate the exhibition this year to Speaker SAM RAYBURN. No Texan ever deserved recognition more than Mr. SAM.

However, the occasion might be a place to start an even more important movement. Next January 6 Speaker RAYBURN will celebrate his 80th birthday. At that time, he will have spent almost 55 years in service of his fellow Texans. He was elected to Congress to start an uninterrupted service in 1913.

Previous to that he had spent 6 years in the Texas House of Representatives—including two terms as speaker of the Texas House.

That 80th birthday gives us Texans an opportunity to do something special for this the most beloved of Texans. We think it is time to start right now to make next January 6 a great day for Speaker RAYBURN and for Texas.

We feel that Texas' own Vice President LYNDON JOHNSON and our President John F. Kennedy would be glad to go along enthusiastically about anything special Texans would like to do for Mr. SAM.

But we think the movement should come from the grassroots so capably served by Speaker RAYBURN for so many decades. We feel that we who are just ordinary citizens of Texas who have felt he has represented not only his district but his whole State and his whole Nation should take the leadership in a national "SAM RAYBURN Day."

What can we do?

There are several things. Maybe it could be something for that library at his Bonham home or a memorial at Washington. It might even be more appropriate and in the true RAYBURN spirit if it were a scholarship fund to provide training for the many fine young men and women in his home district. At least that would be a living tribute to a great public servant.

We would like for this editorial to start a statewide move to make "SAM RAYBURN Day" next January 6 something that the whole Nation will remember for a long time.

#### PEACE CORPS ACT

Mr. MORGAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 7500) to provide for a Peace Corps to help the peoples of interested countries and areas in meeting their needs for skilled manpower, with Senate amendments thereto, disagree to the amendments of the Senate and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. JAMES C. DAVIS. I object, Mr. Speaker.

#### DELAWARE RIVER BASIN COMPACT

Mr. WALTER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the resolution (H.J. Res. 225) entitled "Joint resolution to grant the consent of Congress to the Delaware River Basin compact and to enter into



such compact on behalf of the United States, and for related purposes," with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the resolution.

The Clerk read the Senate amendment, as follows:

Strike out all after the resolving clause and insert:

#### PART I—COMPACT

Whereas the signatory parties recognize the water and related resources of the Delaware Basin as regional assets vested with local, State, and National interests, for which they have a joint responsibility; and

Whereas the conservation, utilization, development, management, and control of the water and related resources of the Delaware River Basin under a comprehensive multipurpose plan will bring the greatest benefits and produce the most efficient service in the public welfare; and

Whereas such a comprehensive plan administered by a basinwide agency will provide effective flood damage reduction; conservation and development of ground and service water supply for municipal, industrial, and agricultural uses; development of recreational facilities in relation to reservoirs, lakes, and streams; propagation of fish and game; promotion of related forestry, soil conservation, and watershed projects; protection and aid to fisheries dependent upon water resources; development of hydroelectric power potentialities; improved navigation; control of the movement of salt water; abatement and control of stream pollution; and regulation of stream flows toward the attainment of these goals; and

Whereas decisions of the United States Supreme Court relating to the waters of the basin have confirmed the interstate regional character of the water resources of the Delaware River Basin, and the United States Corps of Engineers has in a prior report on the Delaware River Basin (House Document 179, Seventy-third Congress, second session) officially recognized the need for an interstate agency and the economies that can result from unified development and control of the water resources of the basin; and

Whereas the water resources of the basin are presently subject to the duplicating, overlapping, and uncoordinated administration of some forty-three State agencies, fourteen interstate agencies, and nineteen Federal agencies which exercise a multiplicity of powers and duties resulting in a splintering of authority and responsibilities; and

Whereas the joint advisory body known as the Interstate Commission on the Delaware River Basin (INCODEL), created by the respective commissions or Committee on Interstate Cooperation of the States of Delaware, New Jersey, New York, and Pennsylvania, has on the basis of its extensive investigations, surveys, and studies concluded that regional development of the Delaware River Basin is feasible, advisable, and urgently needed; and has recommended that an interstate compact with Federal participation be consummated to this end; and

Whereas the Congress of the United States and the executive branch of the Government have recognized the national interest in the Delaware River Basin by authorizing and directing the Corps of Engineers, Department of the Army, to make a comprehensive survey and report on the water and related resources of the Delaware River Basin, enlisting the technical aid and planning participation of many Federal, State, and municipal agencies dealing with the waters of the basin, and in particular the Federal Departments of Agriculture, Commerce, Health, Education, and Welfare, and Interior, and the Federal Power Commission; and

Whereas some twenty-two million people of the United States at present live and work in the region of the Delaware River Basin and its environs, and the government, employment, industry, and economic development of the entire region and the health, safety, and general welfare of its population are and will continue to be vitally affected by the use, conservation, management, and control of the water and related resources of the Delaware River Basin; and

Whereas demands upon the waters and related resources of the basin are expected to mount rapidly because of the anticipated increase in the population of the region projected to reach thirty million by 1980 and forty million by 2010, and because of the anticipated increase in industrial growth projected to double by 1980; and

Whereas water resources planning and development is technical, complex, and expensive, and has often required fifteen to twenty years from the conception to the completion of a large dam and reservoir; and

Whereas the public interest requires that facilities must be ready and operative when needed, to avoid the catastrophe of unexpected floods or prolonged drought, and for other purposes; and

Whereas the Delaware River Basin Advisory Committee, a temporary body constituted by the Governors of the four basin States and the mayors of the cities of New York and Philadelphia, has prepared a draft of an interstate-Federal compact for the creation of a basin agency, and the signatory parties desire to effectuate the purposes thereof: Now therefore

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States hereby consents to, and joins the States of Delaware, New Jersey, and New York and the Commonwealth of Pennsylvania in, the following compact:

#### *Article 1. Short title, definitions, purpose and limitations*

Section 1.1 Short Title. This Act shall be known and may be cited as the Delaware River Basin Compact.

1.2 Definitions. For the purpose of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(a) "Basin" shall mean the area of drainage into the Delaware River and its tributaries, including Delaware Bay;

(b) "Commission" shall mean the Delaware River Basin Commission created and constituted by this compact;

(c) "Compact" shall mean Part I of this act.

(d) "Cost" shall mean direct and indirect expenditures, commitment, and net induced adverse effects, whether or not compensated for, used or incurred in connection with the establishment, acquisition, construction, maintenance and operation of a project;

(e) "Facility" shall mean any real or personal property, within or without the basin, and improvements thereof or thereon, and any and all rights of way, water, water rights, plants, structures, machinery and equipment, acquired, constructed, operated or maintained for the beneficial use of water resources or related land uses including, without limiting the generality of the foregoing, any and all things and appurtenances necessary, useful or convenient for the control, collection, storage, withdrawal, diversion, release, treatment, transmission, sale or exchange of water; or for navigation thereon, or the development and use of hydroelectric energy and power, and public recreational facilities; or the propagation of fish and wildlife; or to conserve and protect the water resources of the basin or any existing or future water supply source, or to facilitate any other uses of any of them;

(f) "Federal government" shall mean the government of the United States of America, and any appropriate branch, department, bureau or division thereof, as the case may be;

(g) "Project" shall mean any work, service or activity which is separately planned, financed, or identified by the commission, or any separate facility undertaken or to be undertaken within a specified area, for the conservation, utilization, control, development or management of water resources which can be established and utilized independently or as an addition to an existing facility, and can be considered as a separate entity for purposes of evaluation;

(h) "Signatory party" shall mean a state or commonwealth party to this compact, and the federal government;

(i) "Water resources" shall include water and related natural resources in, on, under, or above the ground, including related uses of land, which are subject to beneficial use, ownership or control.

1.3 Purpose and Findings. The legislative bodies of the respective signatory parties hereby find and declare:

(a) The water resources of the basin are affected with a local, state, regional and national interest and their planning, conservation, utilization, development, management and control, under appropriate arrangements for intergovernmental cooperation, are public purposes of the respective signatory parties.

(b) The water resources of the basin are subject to the sovereign right and responsibility of the signatory parties, and it is the purpose of this compact to provide for a joint exercise of such powers of sovereignty in the common interests of the people of the region.

(c) The water resources of the basin are functionally inter-related, and the uses of these resources are interdependent. A single administrative agency is therefore essential for effective and economical direction, supervision and coordination of efforts and programs of federal, state and local governments and of private enterprise.

(d) The water resources of the Delaware River Basin, if properly planned and utilized, are ample to meet all presently projected demands, including existing and added diversions in future years and ever increasing economies and efficiencies in the use and reuse of water resources can be brought about by comprehensive planning, programming and management.

(e) In general, the purposes of this compact are to promote interstate comity; to remove causes of present and future controversy; to make secure and protect present developments within the states; to encourage and provide for the planning, conservation, utilization, development, management and control of the water resources of the basin; to provide for cooperative planning and action by the signatory parties with respect to such water resources; and to apply the principle of equal and uniform treatment to all water users who are similarly situated and to all users of related facilities, without regard to established political boundaries.

1.4 Powers of Congress; Withdrawal. Nothing in this compact shall be construed to relinquish the functions, powers or duties of the Congress of the United States with respect to the control of any navigable waters within the basin, nor shall any provision hereof be construed in derogation of any of the constitutional powers of the Congress to regulate commerce among the states and with foreign nations. The power and right of the Congress to withdraw the federal government as a party to this compact or to revise or modify the terms, conditions and provisions under which it may remain a party by amendment, repeal or modification of any federal statute applicable thereto is recognized by the signatory parties.



1.5 Existing Agencies; Construction. It is the purpose of the signatory parties to preserve and utilize the functions, powers and duties of existing offices and agencies of government to the extent not inconsistent with the compact, and the commission is authorized and directed to utilize and employ such offices and agencies for the purpose of this compact to the fullest extent it finds feasible and advantageous.

#### 1.6 Duration of Compact.

(a) The duration of this compact shall be for an initial period of 100 years from its effective date, and it shall be continued for additional periods of 100 years if not later than 20 years nor sooner than 25 years prior to the determination of the initial period or any succeeding period none of the signatory states, by authority of an act of its legislature, notifies the commission of intention to terminate the compact at the end of the then current 100-year period.

(b) In the event that this compact should be terminated by operation of paragraph (a) above, the commission shall be dissolved, its assets and liabilities transferred, and its corporate affairs wound up, in such manner as may be provided by act of the Congress.

#### Article 2. Organization and area

Section 2.1 Commission Created. The Delaware River Basin Commission is hereby created as a body politic and corporate, with succession for the duration of this compact, as an agency and instrumentality of the governments of the respective signatory parties.

2.2 Commission Membership. The commission shall consist of the Governors of the signatory states, ex officio, and one commissioner to be appointed by the President of the United States to serve during the term of office of the President.

2.3 Alternates. Each member of the commission shall appoint an alternate to act in his place and stead, with authority to attend all meetings of the commission, and with power to vote in the absence of the member. Unless otherwise provided by law of the signatory party for which he is appointed, each alternate shall serve during the term of the member appointing him, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

2.4 Compensation. Members of the commission and alternates shall serve without compensation but may be reimbursed for necessary expenses incurred in and incident to the performance of their duties.

2.5 Voting Power. Each member shall be entitled to one vote on all matters which may come before the commission. No action of the commission shall be taken at any meeting unless a majority of the membership shall vote in favor thereof.

2.6 Organization and Procedure. The commission shall provide for its own organization and procedure, and shall adopt rules and regulations governing its meetings and transactions. It shall organize annually by the election of a chairman and vice-chairman from among its members. It shall provide by its rules for the appointment by each member in his discretion of an advisor to serve without compensation, who may attend all meetings of the commission and its committees.

2.7 Jurisdiction of the Commission. The commission shall have, exercise and discharge its functions, powers and duties within the limits of the basin, except that it may in its discretion act outside the basin whenever such action may be necessary or convenient to effectuate its powers or duties within the basin, or to sell or dispose of water, hydroelectric power or other water resources within or without the basin. The commission shall exercise such power outside

the basin only upon the consent of the state in which it proposes to act.

#### Article 3. Powers and duties of the commission

Section 3.1 Purpose and Policy. The commission shall develop and effectuate plans, policies and projects relating to the water resources of the basin. It shall adopt and promote uniform and coordinated policies for water conservation, control, use and management in the basin. It shall encourage the planning, development and financing of water resources projects according to such plans and policies.

3.2 Comprehensive Plan, Program and Budgets. The commission shall, in accordance with Article 13 of this compact, formulate and adopt:

(a) A comprehensive plan, after consultation with water users and interested public bodies, for the immediate and long range development and uses of the water resources of the basin;

(b) A water resources program, based upon the comprehensive plan, which shall include a systematic presentation of the quantity and quality of water resources needs of the area to be served for such reasonably foreseeable period as the commission may determine, balanced by existing and proposed projects required to satisfy such needs, including all public and private projects affecting the basin, together with a separate statement of the projects proposed to be undertaken by the commission during such period; and

(c) An annual current expense budget, and an annual capital budget consistent with the water resources program covering the commission's projects and facilities for the budget period.

3.3 Allocations, Diversions and Releases. The commission shall have the power from time to time as need appears, in accordance with the doctrine of equitable apportionment, to allocate the waters of the basin to and among the states signatory to this compact and to and among their respective political subdivisions, and to impose conditions, obligations and release requirements related thereto, subject to the following limitations:

(a) The commission, without the unanimous consent of the parties to the United States Supreme Court decree in *New Jersey v. New York*, 347 U.S. 995 (1954), shall not impair, diminish or otherwise adversely affect the diversions, compensating releases, rights, conditions, obligations, and provisions for the administration thereof as provided in said decree; provided, however, that after consultation with the river master under said decree the commission may find and declare a state of emergency resulting from a drought or catastrophe and it may thereupon by unanimous consent of its members authorize and direct an increase or decrease in any allocation or diversion permitted or releases required by the decree, in such manner and for such limited time as may be necessary to meet such an emergency condition.

(b) No allocation of waters hereafter made pursuant to this section shall constitute a prior appropriation of the waters of the basin or confer any superiority of right in respect to the use of those waters, nor shall any such action be deemed to constitute an apportionment of the waters of the basin among the parties hereto; provided that this paragraph shall not be deemed to limit or restrict the power of the commission to enter into covenants with respect to water supply, with a duration not exceeding the life of this compact, as it may deem necessary for a benefit or development of the water resources of the basin.

(c) Any proper party deeming itself aggrieved by action of the commission with respect to an out-of-basin diversion or com-

pensating releases in connection therewith, notwithstanding the powers delegated to the commission by this compact may invoke the original jurisdiction of the United States Supreme Court within one year after such action for an adjudication and determination thereof de novo. Any other action of the commission pursuant to this section shall be subject to judicial review in any court of competent jurisdiction.

3.4 Supreme Court Decree: Waivers. Each of the signatory states and their respective political subdivisions, in consideration of like action by the others, and in recognition of reciprocal benefits, hereby waives and relinquishes for the duration of this compact any right, privilege or power it may have to apply for any modification of the terms of the decree of the United States Supreme Court in *New Jersey v. New York*, 347 U.S. 995 (1954) which would increase or decrease the diversions authorized or increase or decrease the releases required thereunder, except that a proceeding to modify such decree to increase diversions or compensating releases in connection with such increased diversions may be prosecuted by a proper party to effectuate rights, powers, duties and obligations under Section 3.3 of this compact, and except as may be required to effectuate the provisions of paragraphs IIIB3 and VB of said decree.

3.5 Supreme Court Decree; Specific Limitations on Commission. Except as specifically provided in sections 3.3 and 3.4 of this article, nothing in this compact shall be construed in any way to impair, diminish or otherwise adversely affect the rights, powers, privileges, conditions and obligations contained in the decree of the United States Supreme Court in *New Jersey v. New York*, 347 U.S. 995 (1954). To this end, and without limitation thereto, the commission shall not:

(a) Acquire, construct or operate any project or facility or make any order or take any action which would impede or interfere with the rights, powers, privileges, conditions or obligations contained in said decree;

(b) Impose or collect any fee, charge or assessment with respect to diversions of waters of the basin permitted by said decree;

(c) Exercise any jurisdiction, except upon consent of all the parties to said decree, over the planning, design, construction, operation or control of any projects, structures or facilities constructed or used in connection with withdrawals, diversions and releases of waters of the basin authorized by said decree or of the withdrawals, diversions or releases to be made thereunder; or

(d) Serve as river master under said decree, except upon consent of all the parties thereto.

3.6 General Powers. The commission may:

(a) Plan, design, acquire, construct, reconstruct, complete, own, improve, extend, develop, operate and maintain any and all projects facilities, properties, activities and services, determined by the commission to be necessary, convenient or useful for the purposes of this compact;

(b) Establish standards of planning, design, and operation of all projects and facilities in the basin which affect its water resources, including without limitation thereto water and waste treatment plants, stream and lake recreational facilities, trunk mains for water distribution, local flood protection works, small watershed management programs, and ground water recharging operations;

(c) Conduct and sponsor research on water resources, their planning, use, conservation, management, development, control and protection, and the capacity, adaptability and best utility of each facility thereof, and collect, compile, correlate, analyze, report and interpret data on water resources and uses



in the basin, including without limitation thereto the relation of water to other resources, industrial water technology, ground water movement, relation between water price and water demand, and general hydrological conditions;

(d) Compile and coordinate systematic stream stage and ground water level forecasting data, and publicize such information when and as needed for water uses, flood warning, quality maintenance or other purposes;

(e) Conduct such special ground water investigations tests, and operations and compile such data relating thereto as may be required to formulate and administer the comprehensive plan;

(f) Prepare, publish and disseminate information and reports with respect to the water problems of the basin and for the presentation of the needs, resources and policies of the basin to executive and legislative branches of the signatory parties;

(g) Negotiate for such loans, grants, services or other aids as may be lawfully available from public or private sources to finance or assist in effectuating any of the purposes of this compact; and to receive and accept such aid upon such terms and conditions, and subject to such provisions for repayment as may be required by federal or state law or as the commission may deem necessary or desirable;

(h) Exercise such other and different powers as may be delegated to it by this compact or otherwise pursuant to law, and have and exercise all powers necessary or convenient to carry out its express powers or which may be reasonably implied therefrom.

**3.7 Rates and Charges.** The commission may from time to time after public notice and hearing fix, alter and revise rates, rentals, charges and tolls and classifications thereof, for the use of facilities which it may own or operate and for products and services rendered thereby, without regulation or control by any department, office or agency of any signatory party.

**3.8 Referral and Review.** No project having a substantial effect on the water resources of the basin shall hereafter be undertaken by any person, corporation or governmental authority unless it shall have been first submitted to and approved by the commission, subject to the provisions of Sections 3.3 and 3.5. The commission shall approve a project whenever it finds and determines that such project would not substantially impair or conflict with the comprehensive plan and may modify and approve as modified, or may disapprove any such project whenever it finds and determines that the project would substantially impair or conflict with such plan. The commission shall provide by regulation for the procedure of submission, review and consideration of projects, and for its determinations pursuant to this section. Any determination of the commission hereunder shall be subject to judicial review in any court of competent jurisdiction.

**3.9 Coordination and Cooperation.** The commission shall promote and aid the coordination of the activities and programs of federal, state, municipal and private agencies concerned with water resources administration in the basin. To this end, but without limitation thereto, the commission may:

(a) Advise, consult, contract, financially assist, or otherwise cooperate with any and all such agencies;

(b) Employ any other agency or instrumentality of any of the signatory parties or of any political subdivision thereof, in the design, construction, operation and maintenance of structures, and the installation and management of river control systems, or for any other purpose;

(c) Develop and adopt plans and specifications for particular water resources projects

and facilities which so far as consistent with the comprehensive plan incorporate any separate plans of other public and private organizations operating in the basin, and permit the decentralized administration thereof;

(d) Qualify as a sponsoring agency under any federal legislation heretofore or hereafter enacted to provide financial or other assistance for the planning, conservation, utilization, development, management or control of water resources.

**3.10 Advisory Committees.** The commission may constitute and empower advisory committees, which may be comprised of representatives of the public and of federal, state, county and municipal governments, water resources agencies, water-using industries, water-interest groups, labor and agriculture.

#### *Article 4. Water supply*

**Section 4.1 Generally.** The commission shall have power to develop, implement and effectuate plans and projects for the use of the water of the basin for domestic, municipal, agricultural and industrial water supply. To this end, without limitation thereto, it may provide for, construct, acquire, operate and maintain dams, reservoirs and other facilities for utilization of surface and ground water resources, and all related structures, appurtenances and equipment on the river and its tributaries and at such off-river sites as it may find appropriate, and may regulate and control the use thereof.

#### **4.2 Storage and Release of Waters.**

(a) The commission shall have power to acquire, operate and control projects and facilities for the storage and release of waters, for the regulation of flows and supplies of surface and ground waters of the basin, for the protection of public health, stream quality control, economic development, improvement of fisheries, recreation, dilution and abatement of pollution, the prevention of undue salinity and other purposes.

(b) No signatory party shall permit any augmentation of flow to be diminished by the diversion of any water of the basin during any period in which waters are being released from storage under the direction of the commission for the purpose of augmenting such flow, except in cases where such diversion is duly authorized by this compact, or by the commission pursuant thereto, or by the judgment, order or decree of a court of competent jurisdiction.

**4.3 Assessable Improvements.** The commission may undertake to provide stream regulation in the main stream or any tributary in the basin and may assess on an annual basis or otherwise the cost thereof upon water users or any classification of them specially benefited thereby to a measurable extent, provided that no such assessment shall exceed the actual benefit to any water user. Any such assessment shall follow the procedure prescribed by law for local improvement assessments and shall be subject to judicial review in any court of competent jurisdiction.

**4.4 Coordination.** Prior to entering upon the execution of any project authorized by this article, the commission shall review and consider all existing rights, plans and programs of the signatory parties, their political subdivisions, private parties, and water users which are pertinent to such project, and shall hold a public hearing on each proposed project.

**4.5 Additional Powers.** In connection with any project authorized by this article, the commission shall have power to provide storage, treatment, pumping and transmission facilities, but nothing herein shall be construed to authorize the commission to engage in the business of distributing water.

#### *Article 5. Pollution control*

**Section 5.1 General Powers.** The commission may undertake investigations and sur-

veys, and acquire, construct, operate and maintain projects and facilities to control potential pollution and abate or dilute existing pollution of the water resources of the basin. It may invoke as complainant the power and jurisdiction of water pollution abatement agencies of the signatory parties.

**5.2 Policy and Standards.** The commission may assume jurisdiction to control future pollution and abate existing pollution in the waters of the basin, whenever it determines after investigation and public hearing upon due notice that the effectuation of the comprehensive plan so requires. The standard of such control shall be that pollution by sewage or industrial or other waste originating within a signatory state shall not injuriously affect waters of the basin as contemplated by the comprehensive plan. The commission, after such public hearing may classify the waters of the basin and establish standards of treatment of sewage, industrial or other waste, according to such classes including allowance for the variable factors of surface and ground waters, such as size of the stream, flow, movement, location, character, self-purification, and usage of the waters affected. After such investigation, notice and hearing the commission may adopt and from time to time amend and repeal rules, regulations and standards to control such future pollution and abate existing pollution, and to require such treatment of sewage, industrial or other waste within a time reasonable for the construction of the necessary works, as may be required to protect the public health or to preserve the waters of the basin for uses in accordance with the comprehensive plan.

**5.3 Cooperative Legislation and Administration.** Each of the signatory parties covenants and agrees to prohibit and control pollution of the waters of the basin according to the requirements of this compact and to cooperate faithfully in the control of future pollution in and abatement of existing pollution from the rivers, streams, and waters in the basin which flow through, under, into or border upon any of such signatory states, and in order to effect such object, agrees to enact any necessary legislation to enable each such party to place and maintain the waters of said basin in a satisfactory condition, available for safe and satisfactory use as public and industrial water supplies after reasonable treatment, suitable for recreational usage, capable of maintaining fish and other aquatic life, free from unsightly or malodorous nuisances due to floating solids or sludge deposits and adaptable to such other uses as may be provided by the comprehensive plan.

**5.4 Enforcement.** The commission may, after investigation and hearing, issue an order or orders upon any person or public or private corporation, or other entity, to cease the discharge of sewage, industrial or other waste into waters of the basin which it determines to be in violation of such rules and regulations as it shall have adopted for the prevention and abatement of pollution. Any such order or orders may prescribe the date, including a reasonable time for the construction of any necessary works, on or before which such discharge shall be wholly or partially discontinued, modified or treated, or otherwise conformed to the requirements of such rules and regulations. Such order shall be reviewable in any court of competent jurisdiction. The courts of the signatory parties shall have jurisdiction to enforce against any person, public or private corporation, or other entity, any and all provisions of this Article or of any such order. The commission may bring an action in its own name in any such court of competent jurisdiction to compel compliance with any provision of this Article, or any rule or regulation issued pursuant thereto or of any such order, according to the practice and procedure of the court.



5.5 Further Jurisdiction. Nothing in this compact shall be construed to repeal, modify or qualify the authority of any signatory party to enact any legislation or enforce any additional conditions and restrictions to lessen or prevent the pollution of waters within its jurisdiction.

#### Article 6. Flood protection

Section 6.1 General Powers. The commission may plan, design, construct and operate and maintain projects and facilities, as it may deem necessary or desirable for flood damage reduction. It shall have power to operate such facilities and to store and release waters on the Delaware River and its tributaries and elsewhere within the basin, in such manner, at such times, and under such regulations as the commission may deem appropriate to meet flood conditions as they may arise.

#### 6.2 Flood Plain Zoning.

(a) The commission shall have power to adopt, amend and repeal recommended standards, in the manner provided by this section, relating to the nature and extent of the uses of land in areas subject to flooding by waters of the Delaware River and its tributaries. Such standards shall not be deemed to impair or restrict the power of the signatory parties or their political subdivisions to adopt zoning and other land use regulations not inconsistent therewith.

(b) The commission may study and determine the nature and extent of the flood plains of the Delaware River and its tributaries. Upon the basis of such studies, it may establish encroachment lines and delineate the areas subject to flood, including a classification of lands with reference to relative risk of flood and the establishment of standards for flood plain use which will safeguard the public health, safety and property. Prior to the adoption of any standards delineating such area or defining such use, the commission shall hold public hearings, in the manner provided by Article 14, with respect to the substance of such standards. At or before such public hearings the proposed standards shall be available, and all interested persons shall be given an opportunity to be heard thereon at the hearing. Upon the adoption and promulgation of such standards, the commission may enter into agreements to provide technical and financial aid to any municipal corporation for the administration and enforcement of any local land use ordinances or regulations giving effect to such standards.

6.3 Flood Lands Acquisition. The commission shall have power to acquire the fee or any lesser interest in lands and improvements thereon within the area of a flood plain for the purpose of restricting the use of such property so as to minimize the flood hazard, converting property to uses appropriate to flood plain conditions, or preventing unwarranted constrictions that reduce the ability of the river channel to carry flood water. Any such action shall be in accord with the standards adopted and promulgated pursuant to Section 6.2.

6.4 Flood and Stream Stage Warnings and Posting. The commission may cause lands particularly subject to flood to be posted with flood hazard warnings, and may from time to time cause flood advisory notices to be published and circulated as conditions may warrant.

#### Article 7. Watershed management

Section 7.1 Watersheds Generally. The commission shall promote sound practices of watershed management in the basin, including projects and facilities to retard runoff and waterflow and prevent soil erosion.

7.2 Soil Conservation and Forestry. The commission may acquire, sponsor or operate facilities and projects to encourage soil conservation, prevent and control erosion, and to promote land reclamation and sound forestry practices.

7.3 Fish and Wildlife. The commission may acquire, sponsor or operate projects and facilities for the maintenance and improvement of fish and wildlife habitats related to the water resources of the basin.

#### 7.4 Cooperative Planning and Operation.

(a) The commission shall cooperate with the appropriate agencies of the signatory parties and with other public and private agencies in the planning and effectuation of a coordinated program of facilities and projects authorized by this Article.

(b) The commission shall not operate any such project or facility unless it has first found and determined that no other suitable unit or agency of government is available to operate the same upon reasonable conditions, in accordance with the intent and purpose expressed in Section 1.5 of this compact.

#### Article 8. Recreation

Section 8.1 Development. The commission shall provide for the development of water related public sports and recreational facilities. The commission on its own account or in cooperation with a signatory party, political subdivision or any agency thereof, may provide for the construction, maintenance and administration of such facilities, subject to the provisions of Section 8.2 hereof.

#### 8.2 Cooperative Planning and Operation.

(a) The commission shall cooperate with the appropriate agencies of the signatory parties and with other public and private agencies in the planning and effectuation of a coordinated program of facilities and projects authorized by this article.

(b) The commission shall not operate any such project or facility unless it has first found and determined that no other suitable unit or agency of government is available to operate the same upon reasonable conditions, in accordance with the intent and purpose expressed in Section 1.5 of this compact.

8.3 Operation and Maintenance. The commission, within limits prescribed by this article, shall:

(a) Encourage activities of other public agencies having water related recreational interests and assist in the coordination thereof;

(b) Recommend standards for the development and administration of water related recreational facilities;

(c) Provide for the administration, operation and maintenance of recreational facilities owned or controlled by the commission and for the letting and supervision of private concessions in accordance with this article.

8.4 Concessions. The commission shall after notice and public hearing provide by regulation for the award of contracts for private concessions in connections with recreational facilities, including any renewal or extension thereof, upon sealed competitive bids after public advertisement therefor.

#### Article 9. Hydroelectric power

Section 9.1 Development. The waters of the Delaware River and its tributaries may be impounded and used by or under authority of the commission for the generation of hydroelectric power and hydroelectric energy, in accordance with the comprehensive plan.

9.2 Power Generation. The commission may develop and operate, or authorize to be developed and operated, dams and related facilities and appurtenances for the purpose of generating hydroelectric power and hydroelectric energy.

9.3 Transmission. The commission may provide facilities for the transmission of hydroelectric power and hydroelectric energy produced by it where such facilities are not otherwise available upon reasonable terms, for the purpose of wholesale marketing of power and nothing herein shall be con-

strued to authorize the commission to engage in the business of direct sale to consumers.

9.4 Development Contracts. The commission may after public notice and hearing enter into contracts on reasonable terms, consideration and duration under which public utilities or public agencies may develop hydroelectric power and hydroelectric energy through the use of dams, related facilities and appurtenances.

9.5 Rates and Charges. Rates and charges fixed by the commission for power which is produced by its facilities shall be reasonable, nondiscriminatory, and just.

#### Article 10. Regulation of withdrawals and diversions

Section 10.1 Power of Regulation. The commission may regulate and control withdrawals and diversions from surface waters and ground waters of the basin, as provided by this article. The commission may enter into agreements with the signatory parties relating to the exercise of such power or regulation or control and may delegate to any of them such powers of the commission as it may deem necessary or desirable.

10.2 Determination of Protected Areas. The commission may from time to time after public hearing upon due notice determine and delineate such areas within the basin wherein the demands upon supply made by water users have developed or threaten to develop to such a degree as to create a water shortage or to impair or conflict with the requirements of effectuation of the comprehensive plan, and any such areas may be designated as "protected areas." The commission, whenever it determines that such shortage no longer exists, shall terminate the protected status of such area and shall give public notice of such termination.

10.3 Withdrawal Permits. In any protected areas so determined and delineated, no person, firm, corporation or other entity shall divert or withdraw water for domestic, municipal, agricultural or industrial uses in excess of such quantities as the commission may prescribe by general regulation, except (i) pursuant to a permit granted under this article, or (ii) pursuant to a permit or approval heretofore granted under the laws of any of these signatory states.

10.4 Emergency. In the event of a drought or other condition which may cause an actual and immediate shortage of available water supply within the basin, or within any part thereof, the commission may, after public hearing, determine and delineate the area of such shortage and declare a water supply emergency therein. For the duration of such emergency as determined by the commission no person, firm, corporation or other public or private entity shall divert or withdraw water for any purpose, in excess of such quantities as the commission may prescribe by general regulation to authorize by special permit granted hereunder.

10.5 Standards. Permits shall be granted, modified or denied as the case may be so as to avoid such depletion of the natural stream flows and ground waters in the protected area or in any emergency area as will adversely affect the comprehensive plan or the just and equitable interests and rights of other lawful users of the same source, giving due regard to the need to balance and reconcile alternative and conflicting uses in the event of an actual or threatened shortage of water of the quality required.

10.6 Judicial Review. The determinations and delineations of the commission pursuant to Section 10.2 and the granting, modification or denial of permits pursuant to Section 10.3 through 10.5 shall be subject to judicial review in any court of competent jurisdiction.

10.7 Maintenance of Records. Each state shall provide for the maintenance and pres-



ervation of such records of authorized diversions and withdrawals and the annual volume thereof as the commission shall prescribe. Such records and supplementary reports shall be furnished to the commission at its request.

10.8 Existing State Systems. Whenever the commission finds it necessary or desirable to exercise the powers conferred by this article any diversion or withdrawal permits authorized or issued under the laws of any of the signatory states shall be suspended to the extent of any conflict with the control and regulation exercised by the commission.

#### Article 11. Intergovernmental relations

Section 11.1 Federal Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern federal projects affecting the water resources of the basin, subject in each case to the provisions of Section 1.4 of this compact:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the commission in the comprehensive plan;

(c) Each federal agency otherwise authorized by law to plan, design, construct, operate, or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section.

11.2 State and Local Agencies and Projects. For the purposes of avoiding conflicts of jurisdictions and giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern projects of the signatory states, their political subdivisions and public corporations affecting water resources of the basin:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility unless it shall have first been included by the commission in the comprehensive plan;

(c) Each state and local agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority, except as specifically provided by this section.

11.3 Reserved Taxing Powers of States. Each of the signatory parties reserves the right to levy, assess and collect fees, charges and taxes on or measured by the withdrawal or diversion of waters of the basin for use within the jurisdictions of the respective signatory parties.

11.4 Projects Costs and Evaluation Standards. The commission shall establish uniform standards and procedures for the evaluation, determination of benefits, and cost allocations of projects affecting the basin, and for the determination of project priorities, pursuant to the requirements of the comprehensive plan and its water resources program. The commission shall develop equitable cost sharing and reimbursement formulas for the signatory parties including:

(a) Uniform and consistent procedures for the allocation of project costs among purposes included in multiple-purpose programs;

(b) Contracts and arrangements for sharing financial responsibility among and with signatory parties, public bodies, groups and

private enterprise, and for the supervision of their performance;

(c) Establishment and supervision of a system of accounts for reimbursable purposes and directing the payments and charges to be made from such accounts;

(d) Determining the basis and apportioning amounts (i) of reimbursable revenues to be paid signatory parties or their political subdivisions, and (ii) of payments in lieu of taxes to any of them.

11.5 Cooperative Services. The commission shall furnish technical services, advice and consultation to authorized agencies of the signatory parties with respect to the water resources of the basin, and each of the signatory parties pledges itself to provide technical and administrative services to the commission upon request, within the limits of available appropriations and to cooperate generally with the commission for the purposes of this compact, and the cost of such services may be reimbursable whenever the parties deem appropriate.

#### Article 12. Capital financing

Section 12.1 Borrowing Power. The commission may borrow money for any of the purposes of this compact, and may issue its negotiable bonds and other evidences of indebtedness in respect thereto. All such bonds and evidences of indebtedness shall be payable solely out of the properties and revenues of the commission without recourse to taxation. The bonds and other obligations of the commission, except as may be otherwise provided in the indenture under which they were issued, shall be direct and general obligations of the commission and the full faith and credit of the commission are hereby pledged for the prompt payment of the debt service thereon and for the fulfillment of all other undertakings of the commission assumed by it to or for the benefit of the holders thereof.

12.2 Funds and Expenses. The purposes of this compact shall include without limitation thereto all costs of any project or facility or any part thereof, including interest during a period of construction and a reasonable time thereafter and any incidental expenses (legal, engineering, fiscal, financial consultant and other expenses) connected with issuing and disposing of the bonds; all amounts required for the creation of an operating fund, construction fund, reserve fund, sinking fund, or other special fund; all other expenses connected with the planning, design, acquisition, construction, completion, improvement or reconstruction of any facility or any part thereof; and reimbursement of advances by the commission or by others for such purposes and for working capital.

12.3 Credit Excluded; Officers, State and Municipal. The commission shall have no power to pledge the credit of any signatory party, or of any county or municipality, or to impose any obligation for payment of the bonds upon any signatory party or any county or municipality. Neither the commissioners nor any person executing the bonds shall be liable personally on the bonds of the commission or be subject to any personal liability or accountability by reason of the issuance thereof.

12.4 Funding and Refunding. Whenever the commission deems it expedient, it may fund and refund its bonds and other obligations whether or not such bonds and obligations have matured. It may provide for the issuance, sale or exchange of refunding bonds for the purpose of redeeming or retiring any bonds (including the payment of any premium, duplicate interest or cash adjustment required in connection therewith) issued by the commission or issued by any other issuing body, the proceeds of the sale of which have been applied to any facility acquired by the commission or which are payable out of the revenues of any facility

acquired by the commission. Bonds may be issued partly to refund bonds and other obligations then outstanding, and partly for any other purpose of the commission. All provisions of this compact applicable to the issuance of bonds are applicable to refunding bonds and to the issuance, sale or exchange thereof.

12.5 Bonds; Authorization Generally. Bonds and other indebtedness of the commission shall be authorized by resolution of the commission. The validity of the authorization and issuance of any bonds by the commission shall not be dependent upon or affected in any way by: (i) the disposition of bond proceeds by the commission or by contract, commitment or action taken with respect to such proceeds; or (ii) the failure to complete any part of the project for which bonds are authorized to be issued. The commission may issue bonds in one or more series and may provide for one or more consolidated bond issues, in such principal amounts and with such terms and provisions as the commission may deem necessary. The bonds may be secured by a pledge of all or any part of the property, revenues and franchises under its control. Bonds may be issued by the commission in such amount, with such maturities and in such denominations and form or forms, whether coupon or registered, as to both principal and interest, as may be determined by the commission. The commission may provide for redemption of bonds prior to maturity on such notice and at such time or times and with such redemption provisions, including premiums, as the commission may, determine.

12.6 Bonds; Resolutions and Indentures Generally. The commission may determine and enter into indentures providing for the principal amount, date or dates, maturities, interest rate, denominations, form, registration, transfer, interchange and other provisions of the bonds and coupons and the terms and conditions upon which the same shall be executed, issued, secured, sold, paid, redeemed, funded and refunded. The resolution of the commission authorizing any bond or any indenture so authorized under which the bonds are issued may include all such covenants and other provisions other than any restriction on the regulatory powers vested in the commission by this compact as the commission may deem necessary or desirable for the issue, payment, security, protection or marketing of the bonds, including without limitation covenants and other provisions as to the rates or amounts of fees, rents and other charges to be charged or made for use of the facilities; the use, pledge, custody, securing, application and disposition of such revenues, of the proceeds of the bonds, and of any other moneys of the commission; the operation, maintenance, repair and reconstruction of the facilities and the amounts which may be expended therefor; the sale, lease or other disposition of the facilities; the insuring of the facilities and of the revenues derived therefrom; the construction or other acquisition of other facilities; the issuance of additional bonds or other indebtedness; the rights of the bondholders and of any trustee for the bondholders upon default by the commission or otherwise; and the modification of the provisions of the indenture and of the bonds. Reference on the face of the bonds to such resolution or indenture by its date of adoption or the apparent date on the face thereof is sufficient to incorporate all of the provisions thereof and of this compact into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has recourse to all of the provisions of the indenture and of this compact and is bound thereby.

12.7 Maximum Maturity. No bond or its terms shall mature in more than fifty years



from its own date and in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date herein authorized shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue.

**12.8 Tax Exemption.** All bonds issued by the commission under the provisions of this compact and the interest thereof shall at all times be free and exempt from all taxation by or under authority of any of the signatory parties, except for transfer, inheritance and estate taxes.

**12.9 Interest.** Bonds shall bear interest at a rate of not to exceed six percent per annum, payable annually or semi-annually.

**12.10 Place of Payment.** The commission may provide for the payment of the principal and interest of bonds at any place or places within or without the signatory states, and in any specified lawful coin or currency of the United States of America.

**12.11 Execution.** The commission may provide for the execution and authentication of bonds by the manual, lithographed or printed facsimile signature of officers of the commission, and by additional authentication by a trustee or fiscal agent appointed by the commission. If any of the officers whose signatures or counter signatures appear upon the bonds or coupons cease to be officers before the delivery of the bonds or coupons, their signatures or counter signatures are nevertheless valid and of the same force and effect as if the officers had remained in office until the delivery of the bonds and coupons.

**12.12 Holding Own Bonds.** The Commission shall have power out of any funds available therefor to purchase its bonds and may hold, cancel or resell such bonds.

**12.13 Sale.** The commission may fix terms and conditions for the sale or other disposition of any authorized issue of bonds. The commission may sell bonds at less than their par or face value but no issue of bonds may be sold at any aggregate price below the par or face value thereof if such sale would result in a net interest cost to the commission calculated upon the entire issue so sold of more than six percent per annum payable semi-annually, according to standard tables of bond values. All bonds issued and sold for cash pursuant to this act shall be sold on sealed proposals to the highest bidder. Prior to such sale, the commission shall advertise for bids by publication of a notice of sale not less than ten days prior to the date of sale, at least once in a newspaper of general circulation printed and published in New York City carrying municipal bond notices and devoted primarily to financial news. The commission may reject any and all bids submitted and may thereafter sell the bonds so advertised for sale at private sale to any financially responsible bidder under such terms and conditions as it deems most advantageous to the public interest, but the bonds shall not be sold at a net interest cost calculated upon the entire issue so advertised, greater than the lowest bid which was rejected. In the event the commission desires to issue its bonds in exchange for an existing facility or portion thereof, or in exchange for bonds secured by the revenues of an existing facility, it may exchange such bonds for the existing facility or portion thereof or for the bonds so secured, plus an additional amount of cash, without advertising such bonds for sale.

**12.14 Negotiability.** All bonds issued under the provisions of this compact are negotiable instruments, except when registered in the name of a registered owner.

**12.15 Legal Investments.** Bonds of the commission shall be legal investments for

savings banks, fiduciaries and public funds in each of the signatory states.

**12.16 Validation Proceedings.** Prior to the issuance of any bonds, the commission may institute a special proceeding to determine the legality of proceedings to issue the bonds and their validity under the laws of any of the signatory parties. Such proceeding shall be instituted and prosecuted in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against each of the signatory parties.

**12.17 Recording.** No indenture need be recorded or filed in any public office, other than the office of the commission. The pledge of revenues provided in any indenture shall take effect forthwith as provided therein and irrespective of the date of receipts of such revenues by the commission or the indenture trustee. Such pledge shall be effective as provided in the indenture without physical delivery of the revenues to the commission or to the indenture trustee.

**12.18 Pledged Revenues.** Bond redemption and interest payments shall, to the extent provided in the resolution or indenture, constitute a first, direct and exclusive charge and lien on all such rates, rents, tolls, fees and charges and other revenues and interest thereon received from the use and operation of the facility, and on any sinking or other funds created therefrom. All such rates, rents, tolls, fees, charges and other revenues, together with interest thereon, shall constitute a trust fund for the security and payment of such bonds and except as and to the extent provided in the indenture with respect to the payment therefrom of expenses for other purposes including administration, operation, maintenance, improvements or extensions of the facilities or other purposes shall not be used or pledged for any other purpose so long as such bonds, or any of them, are outstanding and unpaid.

**12.19 Remedies.** The holder of any bond may for the equal benefit and protection of all holders of bonds similarly situated: (a) by mandamus or other appropriate proceedings require and compel the performance of any of the duties imposed upon the commission or assumed by it, its officers, agents or employees under the provisions of any indenture, in connection with the acquisition, construction, operation, maintenance, repair, reconstruction or insurance of the facilities, or in connection with the collection, deposit, investment, application and disbursement of the rates, rents, tolls, fees, charges and other revenues derived from the operation and use of the facilities, or in connection with the deposit, investment and disbursement of the proceeds received from the sale of bonds; or (b) by action or suit in a court of competent jurisdiction of any signatory party require the commission to account as if it were the trustee of an express trust, or enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds.

**12.20 Capital Financing by Signatory Parties; Guarantees.**

(a) The signatory parties will provide such capital funds required for projects of the commission as may be authorized by their respective statutes in accordance with a cost sharing plan prepared pursuant to Article 11 of this compact; but nothing in this section shall be deemed to impose any mandatory obligation on any of the signatory parties other than such obligations as may be assumed by a signatory party in connection with a specific project or facility.

(b) Bonds of the commission, notwithstanding any other provision of this compact, may be executed and delivered to any duly authorized agency of any of the signatory parties without public offering and may be sold and resold with or without the guaranty of such signatory party, subject to and in accordance with the constitutions of the respective signatory parties.

(c) The commission may receive and accept, and the signatory parties may make, loans, grants, appropriations, advances and payments of reimbursable or non-reimbursable funds or property in any form for the capital or operating purposes of the commission.

### Article 13. Plan, program and budgets

**Section 13.1 Comprehensive Plan.** The commission shall develop and adopt, and may from time to time review and revise, a comprehensive plan for the immediate and long range development and use of the water resources of the basin. The plan shall include all public and private projects and facilities which are required, in the judgment of the commission, for the optimum planning, development, conservation, utilization, management and control of the water resources of the basin to meet present and future needs; provided that the plan shall include any projects required to conform with any present or future decree or judgment of any court of competent jurisdiction. The commission may adopt a comprehensive plan or any revision thereof in such part or parts as it may deem appropriate, provided that before the adoption of the plan or any part or revision thereof the commission shall consult with water users and interested public bodies and public utilities and shall consider and give due regard to the findings and recommendations of the various agencies of the signatory parties and their political subdivisions. The commission shall conduct public hearings with respect to the comprehensive plan prior to the adoption of the plan or any part of the revision thereof.

**13.2 Water Resources Program.** The commission shall annually adopt a water resources program, based upon the comprehensive plan, consisting of the projects and facilities which the commission proposes to be undertaken by the commission and by other authorized governmental and private agencies, organizations and persons during the ensuing six years or such other reasonably foreseeable period as the commission may determine. The water resources program shall include a systematic presentation of:

- 1) the quantity and quality of water resources needs for such period;
- 2) the existing and proposed projects and facilities required to satisfy such needs, including all public and private projects to be anticipated;
- 3) a separate statement of the projects proposed to be undertaken by the commission during such period.

**13.3 Annual Current Expense and Capital Budgets.**

(a) The commission shall annually adopt a capital budget including all capital projects it proposes to undertake or continue during the budget period containing a statement of the estimated cost of each project and the method of financing thereof.

(b) The commission shall annually adopt a current expense budget for each fiscal year. Such budget shall include the commission's estimated expenses for administration, operation, maintenance and repairs, including a separate statement thereof for each project, together with its cost allocation. The total of such expenses shall be balanced by the commission's estimated revenues from all sources, including the cost allocations undertaken by any of the signatory parties in connection with any project. Following the adoption of the annual current expense



budget by the commission, the executive director of the commission shall:

1) certify to the respective signatory parties the amounts due in accordance with existing cost sharing established for each project; and

2) transmit certified copies of such budget to the principal budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures. The amount required to balance the current expense budget in addition to the aggregate amount of item (1) above and all other revenues available to the commission shall be apportioned equitably among the signatory parties by unanimous vote of the commission, and the amount of such apportionment to each signatory party shall be certified together with the budget.

(c) The respective signatory parties covenant and agree to include the amounts so apportioned for the support of the current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the commission in quarterly installments during its fiscal year, provided that the commission may draw upon its working capital to finance its current expense budget pending remittances by the signatory parties.

#### Article 14. General provisions

Section 14.1 Auxiliary Powers of Commission; Functions of Commissioners.

(a) The commission, for the purposes of this compact, may:

1) Adopt and use a corporate seal, enter into contracts, sue and be sued in all courts of competent jurisdiction;

2) Receive and accept such payments, appropriations, grants, gifts, loans, advances and other funds, properties and services as may be transferred or made available to it by any signatory party or by any other public or private corporation or individual, and enter into agreements to make reimbursement for all or part thereof;

3) Provide for, acquire and adopt detailed engineering, administrative, financial and operating plans and specifications to effectuate, maintain or develop any facility or project;

4) Control and regulate the use of facilities owned or operated by the commission;

5) Acquire, own, operate, maintain, control, sell and convey real and personal property and any interest therein by contract, purchase, lease, license, mortgage or otherwise as it may deem necessary for any project or facility, including any and all appurtenances thereto necessary, useful or convenient for such ownership, operation, control, maintenance or conveyance;

6) Have and exercise all corporate powers essential to the declared objects and purposes of the commission.

(b) The commissioners, subject to the provisions of this compact, shall:

1) Serve as the governing body of the commission, and exercise and discharge its powers and duties except as otherwise provided by or pursuant to this compact;

2) Determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid subject to any provisions of law specifically applicable to agencies or instrumentalities created by compact;

3) Provide for the internal organization and administration of the commission;

4) Appoint the principal officers of the commission and delegate to and allocate among them administrative functions, powers, and duties;

5) Create and abolish offices, employments and position as it deems necessary for the purposes of the commission, and subject to the provisions of this article, fix and provide

for the qualification, appointment, removal, term, tenure, compensation, pension and retirement rights of its officers and employees;

6) Let and execute contracts to carry out the powers of the commission.

14.2 Regulations; Enforcement. The commission may:

(a) Make and enforce reasonable rules and regulations for the effectuation, application and enforcement of this compact; and it may adopt and enforce practices and schedules for or in connection with the use, maintenance and administration of projects and facilities it may own or operate and any product or service rendered thereby; provided that any rule or regulation, other than one which deals solely with the internal management of the commission, shall be adopted only after public hearing and shall not be effective unless and until filed in accordance with the law of the respective signatory parties applicable to administrative rules and regulations generally; and

(b) Designate any officer, agent, or employee of the commission to be an investigator or watchman and such person shall be vested with the powers of a peace officer of the state in which he is duly assigned to perform his duties.

14.3 Tax Exemption. The commission, its property, functions, and activities shall be exempt from taxation by or under the authority of any of the signatory parties or any political subdivision thereof; provided that in lieu of property taxes the commission shall, as to specific projects, make payments to local taxing districts in annual amounts which shall equal the taxes lawfully assessed upon property for the tax year next prior to its acquisition by the commission for a period of ten years. The nature and amount of such payments shall be reviewed by the commission at the end of ten years, and from time to time thereafter, upon reasonable notice and opportunity to be heard to the affected taxing district, and the payments may be thereupon terminated or continued in such reasonable amount as may be necessary or desirable to take into account hardships incurred and benefits received by the taxing jurisdiction which are attributable to the project.

14.4 Meetings; Public Hearing; Records, Minutes.

(a) All meetings of the commission shall be open to the public.

(b) The commission shall conduct at least one public hearing prior to the adoption of the comprehensive plan, water resources program, annual capital and current expense budgets, the letting of any contract for the sale or other disposition by the commission of hydroelectric energy or water resources to any person, corporation or entity, and in all other cases wherein this compact requires a public hearing. Such hearing shall be held upon at least ten days public notice given by posting at the offices of the commission. The commission shall also provide forthwith for distribution of such notice to the press and by the mailing of a copy thereof to any person who shall request such notices.

(c) The minutes of the commission shall be a public record open to inspection at its offices during regular business hours.

#### 14.5 Officers Generally.

(a) The officers of the commission shall consist of an executive director and such additional officers, deputies and assistants as the commission may determine. The executive director shall be appointed and may be removed by the affirmative vote of a majority of the full membership of the commission. All other officers and employees shall be appointed by the executive director under such rules of procedure as the commission may determine.

(b) In the appointment and promotion of officers and employees for the commission, no

political, racial, religious or residence test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be solely on the basis of merit and fitness. Any officer or employee of the commission who is found by the commission to be guilty of a violation of this section shall be removed from office by the commission.

14.6 Oath of Office. An oath of office in such form as the commission shall prescribe shall be taken, subscribed and filed with the commission by the executive director and by each officer appointed by him not later than fifteen days after the appointment.

14.7 Bond. Each officer shall give such bond and in such form and amount as the commission may require for which the commission may pay the premium.

#### 14.8 Prohibited Activities.

(a) No commissioner, officer or employee shall:

1) be financially interested, either directly or indirectly, in any contract, sale, purchase, lease or transfer of real or personal property to which the commission is a party;

2) solicit or accept money or any other thing of value in addition to the compensation or expenses paid him by the commission for services performed within the scope of his official duties;

3) offer money or any thing of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the commission.

(b) Any officer or employee who shall willfully violate any of the provisions of this section shall forfeit his office or employment.

(c) Any contract or agreement knowingly made in contravention of this section is void.

(d) Officers and employees of the commission shall be subject in addition to the provisions of this section to such criminal and civil sanctions for misconduct in office as may be imposed by federal law and the law of the signatory State in which such misconduct occurs.

14.9 Purchasing. Contracts for the construction, reconstruction or improvement of any facility when the expenditure required exceeds ten thousand dollars and contracts for the purchase of services, supplies, equipment and materials when the expenditure required exceeds two thousand five hundred dollars shall be advertised and let upon sealed bids to the lowest responsible bidder. Notice requesting such bids shall be published in a manner reasonably likely to attract prospective bidders, which publication shall be made at least ten days before bids are received and in at least two newspapers of general circulation in the basin. The commission may reject any and all bids and readvertise in its discretion. If after rejecting bids the commission determines and resolves that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the commission may give each responsible bidder an opportunity to negotiate a price and may proceed to purchase the supplies, equipment and materials in the open market at a negotiated price which is lower than the lowest rejected bid of a responsible bidder, without further observance of the provisions requiring bids or notice. The commission shall adopt rules and regulations to provide for purchasing from the lowest responsible bidder when sealed bids, notice and publication are not required by this section. The commission may suspend and waive the provisions of this section requiring competitive bids whenever:

1) the purchase is to be made from or the contract to be made with the federal or any state government or any agency or political subdivision thereof or pursuant to any open end bulk purchase contract of any of them;

2) the public exigency requires the immediate delivery of the articles or performance of the service;



3) only one source of supply is available;  
4) the equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest; or

5) services are to be provided of a specialized or professional nature.

14.10 Insurance. The commission may self-insure or purchase insurance and pay the premiums therefor against loss or damage to any of its properties; against liability for injury to persons or property; and against loss of revenue from any cause whatsoever. Such insurance coverage shall be in such form and amount as the commission may determine, subject to the requirements of any agreement arising out of the issuance of bonds by the commission.

#### 14.11 Annual Independent Audit.

(a) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial accounts of the commission. The audit shall be made by qualified certified public accountants selected by the commission, who have no personal interest direct or indirect in the financial affairs of the commission or any of its officers or employees. The report of audit shall be prepared in accordance with accepted accounting practices and shall be filed with the chairman and such other officers as the commission shall direct. Copies of the report shall be distributed to each commissioner and shall be made available for public distribution.

(b) Each signatory party by its duly authorized officers shall be entitled to examine and audit at any time all of the books, documents, records, files and accounts and all other papers, things or property of the commission. The representatives of the signatory parties shall have access to all books, documents, records, accounts, reports, files and all other papers, things or property belonging to or in use by the commission and necessary to facilitate the audit and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents and custodians.

(c) The financial transactions of the commission shall be subject to audit by the general accounting office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the comptroller general of the United States. The audit shall be conducted at the place or places where the accounts of the commission are kept.

(d) Any officer or employee who shall refuse to give all required assistance and information to the accountants selected by the commission or to the authorized officers of any signatory party or who shall refuse to submit to them for examination such books, documents, records, files, accounts, papers, things or property as may be requested shall forfeit his office.

14.12 Reports. The commission shall make and publish an annual report to the legislative bodies of the signatory parties and to the public reporting on its programs, operations and finances. It may also prepare, publish and distribute such other public reports and informational materials as it may deem necessary or desirable.

#### 14.13 Grants, Loans or Payments by States or Political Subdivisions.

(a) Any or all of the signatory parties or any political subdivision thereof may:

1) Appropriate to the commission such funds as may be necessary to pay preliminary expenses such as the expenses incurred in the making of borings, and other studies of subsurface conditions, in the preparation of contracts for the sale of water and in the preparation of detailed plans and estimates required for the financing of a project;

2) Advance to the commission, either as grants or loans, such funds as may be necessary or convenient to finance the operation and management of or construction by the commission of any facility or project;

3) Make payments to the commission for benefits received or to be received from the operation of any of the projects or facilities of the commission.

(b) Any funds which may be loaned to the commission either by a signatory party or a political subdivision thereof shall be repaid by the commission through the issuance of bonds or out of other income of the commission, such repayment to be made within such period and upon such terms as may be agreed upon between the commission and the signatory party or political subdivision making the loan.

#### 14.14 Condemnation Proceedings.

(a) The commission shall have the power to acquire by condemnation the fee or any lesser interest in lands, lands lying under water, development rights in land, riparian rights, water rights, waters and other real or personal property within the basin for any project or facility authorized pursuant to this compact. This grant of power of eminent domain included but is not limited to the power to condemn for the purposes of this compact any property already devoted to a public use, by whomsoever owned or held, other than property of a signatory party and any property held, constructed, operated or maintained in connection with a diversion authorized by a United States Supreme Court decree. Any condemnation of any property or franchises owned or used by a municipal or privately owned public utility, unless the affected public utility facility is to be relocated or replaced, shall be subject to the authority of such state board, commission or other body as may have regulatory jurisdiction over such public utility.

(b) Such power of condemnation shall be exercised in accordance with the provisions of any federal law applicable to the commission; provided that if there is no such applicable federal law, condemnation proceedings shall be in accordance with the provisions of such general state condemnation law as may be in force in the signatory state in which the property is located.

(c) Any award or compensation for the taking of property pursuant to this article shall be paid by the commission, and none of the signatory parties nor any other agency, instrumentality or political subdivision thereof shall be liable for such award or compensation.

#### 14.15 Conveyance of Lands and Relocation of Public Facilities.

(a) The respective officers, agencies, departments, commissions or bodies having jurisdiction and control over real and personal property owned by the signatory parties are authorized and empowered to transfer and convey in accordance with the laws of the respective parties to the commission any such property as may be necessary or convenient to the effectuation of the authorized purposes of the commission.

(b) Each political subdivision of each of the signatory parties is authorized and empowered, notwithstanding any contrary provision of law, to grant and convey to the commission, upon the commission's request, any real property or any interest therein owned by such political subdivision including lands lying under water and lands already devoted to public use which may be necessary or convenient to the effectuation of the authorized purposes of the commission.

(c) Any highway, public utility or other public facility which will be dislocated by reason of a project deemed necessary by the commission to effectuate the authorized purposes of this compact shall be relocated and the cost thereof shall be paid in ac-

cordance with the law of the state in which the facility is located; provided that the cost of such relocation payable by the commission shall not in any event exceed the expenditure required to serve the public convenience and necessity.

14.16 Rights of Way. Permission is hereby granted to the commission to locate, construct and maintain any aqueducts, lines, pipes, conduits and auxiliary facilities authorized to be acquired, constructed, owned, operated or maintained by the commission in, over, under or across any streets and highways now or hereafter owned, opened or dedicated to or for public use, subject to such reasonable conditions as the highway department of the signatory party may require.

14.17 Penal Sanction. Any person, association or corporation who violates or attempts or conspires to violate any provision of this compact or any rule, regulation or order of the commission duly made, promulgated or issued pursuant to the compact in addition to any other remedy, penalty or consequence provided by law shall be punishable as may be provided by statute of any of the signatory parties within which the offense is committed; provided that in the absence of such provision any such person, association or corporation shall be liable to a penalty of not less than \$50 nor more than \$1000 for each such offense to be fixed by the court which the commission may recover in its own name in any court of competent jurisdiction, and in a summary proceeding where available under the practice and procedure of such court. For the purposes of this section in the event of a continuing offense each day of such violation, attempt or conspiracy shall constitute a separate offense.

14.18 Tort Liability. The commission shall be responsible for claims arising out of the negligent acts or omissions of its officers, agents and employees only to the extent and subject to the procedures prescribed by law generally with respect to officers, agents and employees of the government of the United States.

14.19 Effect on Riparian Rights. Nothing contained in this compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective signatory parties relating to riparian rights.

14.20 Amendments and Supplements. Amendments and supplements to this compact to implement the purposes thereof may be adopted by legislative action of any of the signatory parties concurred in by all of the others.

#### Construction and severability

14.21 The provisions of this Act and of agreements thereunder shall be severable and if any phrase, clause, sentence or provision of the Delaware River Basin Compact or such agreement is declared to be unconstitutional or the applicability thereof to any signatory party, agency or person is held invalid, the constitutionality of the remainder of such compact or such agreement and the applicability thereof to any other signatory party, agency, person or circumstance shall not be affected thereby. It is the legislative intent that the provisions of such compact be reasonably and liberally construed.

14.22 Effective Date; Execution. This compact shall become binding and effective thirty days after the enactment of concurring legislation by the federal government, the states of Delaware, New Jersey and New York, and the Commonwealth of Pennsylvania. The compact shall be signed and sealed in six duplicate original copies by the respective chief executives of the signatory parties. One such copy shall be filed with the Secretary of State of each of the signatory parties or in accordance with the laws



of the state in which the filing is made, and one copy shall be filed and retained in the archives of the commission upon its organization. The signatures shall be affixed and attested under the following form:

In witness whereof, and in evidence of the adoption and enactment into law of this compact by the Congress and legislatures, respectively, of the signatory parties, the President of the United States and the respective Governors do hereby, in accordance with authority conferred by law, sign this compact in six duplicate original copies, as attested by the respective secretaries of state, and have caused the seals of the United States and of the respective states to be hereunto affixed this day of , 19 .

#### PART II

##### Article 15. Reservations

15.1 In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

(a) Notwithstanding any provision of the Delaware River Basin Compact the Delaware River Basin Commission shall not undertake any project (as defined in such compact), other than a project for which State supplied funds only will be used, beyond the planning stage until—

(1) such Commission has submitted to the Congress such complete plans and estimates for such project as may be necessary to make an engineering evaluation of such project, including—

(A) where the project will serve more than one purpose, an allocation of costs among the purposes served and an estimate of the ratio of benefits to costs for each such purpose.

(B) an apportionment of costs among the beneficiaries of the project, including the portion of the costs to be borne by the Federal Government and by State and local governments, and

(C) a proposal for financing the project, including the terms of any proposed bonds or other evidences of indebtedness to be used for such purpose; and

(2) such project has been authorized by Act of Congress.

(b) No provision of Section 3.7 of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the Basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the Compact; or to impose any charges with respect to commercial navigation within the Basin, jurisdiction over which is reserved to the Federal Government: *Provided*, That this paragraph shall be applicable to the extent not inconsistent with Section 1.4 of this Compact.

(c) Nothing contained in the Compact shall be deemed to restrict the executive powers of the President in the event of a national emergency.

(d) Notwithstanding the provisions of Article 2, section 2.2 of the Compact, the member of the commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President.

(e) Nothing contained in the Compact shall be construed as impairing or in any manner affecting the applicability to all Federal funds budgeted and appropriated for use by the Commission, or such authority over budgetary and appropriation matters as the President and Congress may have with respect to agencies in the Executive Branch of the Federal Government.

(f) Except to the same extent that state bonds are or may continue to be free or exempt from Federal taxation under the internal revenue laws of the United States, nothing contained in the Compact shall be

construed as freeing or exempting from internal revenue taxation in any manner whatsoever any bonds issued by the Commission, their transfer, or the income therefrom (including any profits made on the sale thereon).

(g) Nothing contained in the Compact shall be construed to obligate the United States legally or morally to pay the principal or interest on any bonds issued by the Delaware River Basin Commission.

(h) Notwithstanding the provisions of section 11.5 or any other provision of the Compact, the furnishing of technical services to the Commission by agencies of the executive branch of the Government of the United States is pledged only to the extent that the respective agencies shall from time to time agree thereto or to the extent that the President may from time to time direct such agencies to perform such services for the Commission. Nothing in the Compact shall be deemed to require the United States to furnish administrative services or facilities for carrying out functions of the Commission except to the extent that the President may direct.

(i) All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are undertaken by the Commission or are financially assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the locality so determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in any workweek, as the case may be. A provision stating the minimum wages thus determined and the requirement that overtime be paid as above provided shall be set out in each project advertisement of bids and in each bid proposal form and shall be made a part of the contract covering the project. The Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards specified in this provision, the supervisory, investigatory and other authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 1332-15, and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

(j) Contracts for the manufacture or furnishing of materials, supplies, articles and equipment with the Commission which are in excess of \$10,000 shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.).

(k) Notwithstanding any other provision of this Act, nothing contained in this Act or in the Compact shall be construed as superseding or limiting the functions, under any other law, of the Secretary of Health, Education, and Welfare or of any other officer or agency of the United States, relating to water pollution: *Provided*, That the exercise of such functions shall not limit the authority of the Commission to control, prevent, or abate water pollution.

(l) The provisions of section 8.4 of Article 8 of the Compact shall not be construed to apply to facilities operated pursuant to any other Federal law.

(m) For purposes of the Act of June 25, 1948, 62 Stat. 982, as amended (Title 28, U.S. Code, chapter 171, and sections 1346(b) and 240(b)) and the Act of March 3, 1887, 24 Stat. 505, as amended (Title 28, U.S. Code, sections 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412, 2501), and the Act of June 11, 1946, 60 Stat. 237, as amended (Title 5, U.S. Code, sections 1001 and 1011, Title 50

App. U.S. Code, section 1900), the Commission shall not be considered a Federal agency.

(n) The officers and employees of the Commission (other than the United States member, alternate United States member, and advisors, and personnel employed by the United States member under direct Federal appropriation) shall not be deemed to be, for any purpose, officers or employees of the United States or to become entitled at any time by reason of employment by the Commission to any compensation or benefit payable or made available by the United States solely and directly to its officers and employees.

(o) Neither the Compact nor this Act shall be deemed to enlarge the authority of any Federal agency other than the Commission to participate in or to provide funds for projects or activities in the Delaware River Basin.

(p) The United States district courts shall have original jurisdiction of all cases or controversies arising under the Compact, and this Act and any case or controversy so arising initiated in a State Court shall be removable to the appropriate United States district court in the manner provided by § 1446, Title 28 U.S.C. Nothing contained in the Compact or elsewhere in this Act shall be construed as a waiver by the United States of its immunity from suit.

(q) The right to alter, amend, or repeal this Act is hereby expressly reserved. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by the Delaware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee.

(r) The provisions of section 2.4 and 2.6 of Article 2 of the Compact notwithstanding, the member and alternate member appointed by the President and advisor there referred to may be paid compensation by the United States, such compensation to be fixed by the President at the rates which he shall deem to prevail in respect to comparable officers in the executive branch.

(s) 1. Nothing contained in this Act or in the Compact shall impair or affect the constitutional authority of the United States or any of its powers, rights, functions, or jurisdiction under other existing or future legislation in and over the area or waters which are the subject of the Compact including projects of the Commission: *Provided*, That whenever a comprehensive plan, or any part or revision thereof, has been adopted with the concurrence of the member appointed by the President, the exercise of any powers conferred by law on any officer, agency or instrumentality of the United States with regard to water and related land resources in the Delaware River Basin shall not substantially conflict with any such portion of such comprehensive plan and the provisions of Section 3.8 and Article 11 of the Compact shall be applicable to the extent necessary to avoid such substantial conflict: *Provided further*, That whenever the President shall find and determine that the national interest so requires, he may suspend, modify or delete any provision of the comprehensive plan to the extent that it affects the exercise of any powers, rights, functions, or jurisdiction conferred by law on any officer, agency or instrumentality of the United States other than the Commission. Such action shall be taken by executive order in which such finding and determination shall be set forth.

2. For the purposes of paragraph 1 hereof, concurrence by the member appointed by the President shall be presumed unless within 60 days after notice to him of adoption of the comprehensive plan, or any part or revision thereof, he shall file with the Commission notice of his nonconcurrence. Each concurrence of the member appointed



by the President in the adoption of the comprehensive plan or any part or revision thereof may be withdrawn by notice filed with the Commission at any time between the first and sixtieth day of the sixth year after the initial adoption of the comprehensive plan and of every sixth year thereafter.

(t) In the event that any phrase, clause, sentence or provision of Section 1.4 of Article 1 of the Compact, is declared to be unconstitutional under the constitution of any of the signatory parties, or the applicability thereof to any signatory party, agency or person is held invalid by a court of last resort of competent jurisdiction, the United States shall cease to be a party to the Compact, except to the extent that the President deems remaining a party necessary and proper to protect the national interest, and shall cease to be bound by the terms thereof.

(u) All Acts or parts of Acts inconsistent with the provisions of this Act are hereby amended for the purpose of this Act to the extent necessary to carry out the provisions of this Act: *Provided, however,* That no act of the Commission shall have the effect of repealing, modifying or amending any Federal law.

#### Effectuation

15.2(a) The President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the Compact and the initial organization and operation of the Commission thereunder.

(b) Executive departments and other agencies of the executive branch of the Federal Government shall cooperate with and furnish appropriate assistance to the United States member. Such assistance shall include the furnishing of services and facilities and may include the detaching of personnel to the United States member. Appropriations are hereby authorized as necessary for the carrying out of the functions of the United States member, including appropriations for the employment of personnel by the United States member.

15.3 Effective Date: This Act shall take effect immediately.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. CRAMER. Mr. Speaker, reserving the right to object, would the distinguished gentleman from Pennsylvania indicate what the amendment of the other body was?

Mr. WALTER. The amendment made by the other body is principally a codification of the provisions in the House resolution. The only one of any significance, I think, is the one on page 78, line 12 through 15, which provides that nothing contained in the compact shall be construed to obligate the United States legally or morally to pay the principal or interest on any bonds issued by the Delaware River Basin Commission. This is the matter that caused some concern in this body, and I think that the amendment is all right. In addition to that, on page 77, in order to make it abundantly clear that the Commission would not enter into any agreements for the purpose of making improvements, the Congress would have to be consulted; providing that such projects be authorized by act of Congress. In other words, before there can be any work done in the Delaware Valley, the Congress will have to give its consent to whatever the project happens to be. The same thing is true with respect to part II, article 15, on page 76. This is new, and in substance

it provides for prior congressional authorization for construction projects.

Mr. CRAMER. I thank the gentleman. I will say, Mr. Speaker, that, of course, this amendment in the other body substantially strengthens the resolution, in my opinion. It takes care of some of the objections which were raised on the floor of this body by myself and some other Members, not only from the Committee on the Judiciary but the Committee on Public Works, however, our principal objection was, as the gentleman from Pennsylvania knows, that the Federal Government's membership on this Commission is a voting membership and that by reason of being a voting member of that Commission it impliedly obligates the Federal Government and improperly injects it into State compact matters. Of course, we debated that matter at length on the floor of the House previously and lost our fight.

Mr. WALTER. I do not agree with the gentleman from Florida. However, the language makes it abundantly clear that the so-called moral obligation could not be created.

Mr. CRAMER. Further reserving the right to object, Mr. Speaker, of course the requirement that the projects involved come back for congressional approval to some extent overcomes the objection with regard to further congressional action.

I made this reservation, Mr. Speaker, to make it abundantly clear that those of us who hold the view which includes the administration as executive branch, prior and present, with regard to Federal voting membership on these interstate compact commissions, that the passage of this bill in this manner does not mean I presently in any way waive my prior objections on the basis of the Federal voting membership on these commissions which we feel is fundamentally wrong.

Mr. THOMPSON of New Jersey. Mr. Speaker, reserving the right to object, I do so only to commend the distinguished gentleman from Pennsylvania for what amounts to nothing less than a prodigious and wonderful effort on behalf of this legislation.

The reservations recently expressed by the gentleman from Florida are specifically and categorically answered by the language adopted in the other body.

Mr. WALTER. I thank the gentleman from New Jersey. He made a great contribution in the preparation of this very technical document. It is entirely novel. The contribution made by the gentleman from New Jersey makes the work a lot simpler than it otherwise would have been.

I yield to the gentleman from Pennsylvania.

Mr. SAYLOR. Mr. Speaker, I would like to take this opportunity to commend the gentleman from Pennsylvania [Mr. WALTER], a distinguished member of the Judiciary Committee, for the work he did in adopting the amendments which were accepted by the Senate and in going along with the two amendments which he has called to our attention which were adopted in the other body. I think that with the amendments that

have been adopted in the other body, Congress still has complete control over all the projects that will be built in the Delaware River Basin.

Mr. WALTER. Yes; there is no question.

Mr. CRAMER. Further reserving the right to object, Mr. Speaker, I cannot let the remarks of the gentleman from New Jersey go unanswered, in which he said a moment ago the Senate amendments provided a categorical reply and complete answer to the objections raised by those of us who opposed this bill on the floor of this body because of voting Federal membership on the Commission when the matter was under consideration, because they do not so do.

The only way the objection could be fully met would be if the membership of the commission were a nonvoting Federal participating membership rather than a voting membership. I sincerely hope this body will give further consideration to the matter when future compacts come before us.

I may say, Mr. Speaker, that all of us are in wholehearted sympathy and accord with the objectives of the Delaware Compact States working together as a team to bring about a solution of their water problems. With that I do not quarrel. The gentleman from Pennsylvania is to be congratulated for the leadership he has given to the compact and to its objectives, and likewise those of us who opposed it on the basis of this fundamental question are not opposed to the objective at all or to the matter of interstate solution of this problem. We do oppose the Federal Government injecting itself into the administrative functions and all actions of these compact commissions and we believe it is an undue invasion of Federal authority into State matters as well as committing the Federal Government in this fashion to State actions.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Senate amendments were concurred in.

A motion to reconsider was laid on the table.

#### GENERAL EXTENSION OF REMARKS

Mr. ALBERT. Mr. Speaker, I ask unanimous consent that all Members who spoke today on the various conference reports and other legislative matters may have permission to revise and extend their remarks and, if they desire to include extraneous matter, they may have that permission; also that all Members may have 5 legislative days in which to extend their remarks in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

#### CORRECTION OF ROLL CALL

Mr. SMITH of Iowa. Mr. Speaker, on rollcall No. 203, I am recorded as being absent. I was present and voted



"yea," and I ask unanimous consent that the permanent RECORD be corrected accordingly.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

#### A PERSON TO PERSON MEETING WITH THE CONSTITUENTS OF THE FOURTH DISTRICT OF INDIANA

Mr. ADAIR. Mr. Speaker, during the recess of this session of the 87th Congress, I plan to conduct my annual official tour of the 4th Indiana District. This will enable me to meet with interested constituents and discuss governmental and legislative matters, as well as sounding out sentiment and reaction to the record of the congressional session just finished.

I should like to point particularly to three bills I have introduced. One was a farm bill which would remove many restrictive governmental controls over agriculture. Another was a tax-revision measure. It would reduce taxes and provide for a long-range change in the present burdensome tax policies which are a burden upon the expansion of our free economy.

To lift one of the limiting provisions of the Social Security Act, I introduced a bill which would enable individuals annually to earn more without losing their benefits under this program.

Again, I would like to point to my vote against the administration's long-range back-door financing of foreign aid and my opposition to increased Federal spending. I voted against raising the debt limit again although the measure was adopted increasing the Federal debt to almost \$300 billion. Moreover, I have been critical of the administration's foreign policies with particular respect to the situations in Laos, Cuba, and the incidents which led up to the Berlin crises.

I have supported a build-up of our defense posture in the battle against communism but also feel we should maintain a sound American dollar as one of our first lines of national security.

To continue the trend toward more socialism by expanding the Federal bureaucracy in these critical times, can only jeopardize the future security of the Nation.

In extending an invitation to constituents to meet with me during the tour, I find these tours an excellent method of getting first hand information on what is best for the Nation. I hope that as usual many will gather at the post offices nearest them to discuss issues with which they are personally concerned. From such interviews, I feel I will be in a better position to serve the district during the next session of the Congress, which will begin in January.

Also, my district office for the convenience of constituents is in Room 925 Lincoln Tower, Fort Wayne. My office at Washington, D.C., Room 1511 House Office Building also will remain open as usual during adjournment.

I represent the following eight counties: Adams, Wells, Allen, Whitley, DeKalb, Noble, Steuben, and LaGrange.

The tour dates and places are as follows:

Monday, October 2, 9:30 a.m., Ossian Post Office.

Monday, October 2, 11 a.m., Bluffton Post Office.

Monday, October 2, 2 p.m., Decatur Post Office.

Monday, October 2, 4 p.m., Berne Post Office.

Tuesday, October 3, 10 a.m., Garret Post Office.

Tuesday, October 3, 11:30 a.m., Auburn Post Office.

Tuesday, October 3, 2:30 p.m., Butler Post Office.

Tuesday, October 3, 4:30 p.m., Waterloo Post Office.

Wednesday, October 4, 10 a.m., Albion Post Office.

Wednesday, October 4, 1:30 a.m., Kendallville Post Office.

Wednesday, October 4, 4 p.m., Ligonier Post Office.

Thursday, October 5, 10 a.m., Angola Post Office.

Thursday, October 5, 1:30 p.m., Fremont Post Office.

Thursday, October 5, 3:30 p.m., LaGrange Post Office.

Friday, October 6, 10 a.m., Columbia City Post Office.

Friday, October 6, 1:30 p.m., South Whitley Post Office.

Friday, October 6, 4 p.m., Churubusco Post Office.

#### LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. MARTIN of Nebraska (at the request of Mr. HALLECK) indefinitely, on account of official business.

#### SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. MACK, for 5 minutes, on Wednesday next, September 20, 1961.

Mr. ROBERTS, for 15 minutes, on Tuesday next, September 19, 1961.

#### EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the Appendix of the RECORD, or to revise and extend remarks, was granted to:

Mr. THORNBERRY, notwithstanding the cost is estimated by the Public Printer to be \$216.

Mr. LANE in five instances and to include extraneous matter.

Mr. GROSS in two instances and to include extraneous matter.

Mr. ADAIR in the body of the RECORD and to include extraneous matter.

#### SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were

taken from the Speaker's table and, under the rule, referred as follows:

S. 310. An act for the relief of Annie Tymocheck Porayko; to the Committee on the Judiciary.

S. 522. An act to authorize the establishment of the Hubbell Trading Post National Historical Site, in the State of Arizona, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 899. An act for the relief of Liu Shui Chen; to the Committee on the Judiciary.

S. 1060. An act to authorize the Secretary of the Interior to construct, operate, and maintain the Oroville-Tonasket unit of the Okanogan-Similkameen division, Chief Joseph Dam project, Washington, and for other purposes; to the Committee on Interior and Insular Affairs.

S. 1063. An act to amend the act of April 22, 1960, entitled "An act to provide for the establishment of the Wilson's Creek Battlefield National Park, in the State of Missouri"; to the Committee on Interior and Insular Affairs.

S. 1076. For the relief of Nancie Ellen Williamson; to the Committee on the Judiciary.

S. 1139. An act to amend the act granting the consent of Congress to the States of Montana, North Dakota, South Dakota, and Wyoming to negotiate and enter into a compact relating to the waters of the Little Missouri River in order to extend the expiration date of such act; to the Committee on Interior and Insular Affairs.

S. 1439. An act for the relief of Harold and Sylvia Freda Karro and their three minor children, Allen Karro, Jennifer Karro, and Michelle Karro; to the Committee on the Judiciary.

S. 1560. An act for the relief of Yasuko Otsu; to the Committee on the Judiciary.

S. 1685. An act for the relief of Brigitte Marie Ida Kroll; to the Committee on the Judiciary.

S. 1728. An act to amend section 510 of the Merchant Marine Act, 1936, to provide for the trade-in of obsolete vessels in connection with the construction of new vessels, either at the time of executing the construction contract or at the time of delivery of the new vessel; to the Committee on Merchant Marine and Fisheries.

S. 1793. An act for the relief of Mrs. Alfia Alessandro Milana; to the Committee on the Judiciary.

S. 1942. An act for the relief of the State of New Hampshire; to the Committee on the Judiciary.

S. 1947. An act for the relief of Annemarie Herrmann; to the Committee on the Judiciary.

S. 2012. An act for the relief of Mrs. Moy York Chen; to the Committee on the Judiciary.

S. 2163. An act for the relief of Salfook Chan; to the Committee on the Judiciary.

S. 2291. An act for the relief of Paul James Brannan; to the Committee on the Judiciary.

S. 2337. An act for the relief of Athanasia G. Koumoutsos; to the Committee on the Judiciary.

S. 2394. An act to authorize the improvement of Portland Harbor, Maine; to the Committee on Public Works.

S. 2426. An act to revise the Federal election laws, to prevent corrupt practices in Federal elections, and for other purposes; to the Committee on House Administration.

S. Con. Res. 44. Concurrent resolution to print certain hearings before the Internal Security Subcommittee of the Judiciary Committee in Spanish, French, and Italian languages; to the Committee on House Administration.









## Joint Resolution

75 STAT. 688.

To create a regional agency by intergovernmental compact for the planning, conservation, utilization, development, management, and control of the water and related natural resources of the Delaware River Basin, for the improvement of navigation, reduction of flood damage, regulation of water quality, control of pollution, development of water supply, hydroelectric energy, fish and wildlife habitat, and public recreational facilities, and other purposes, and defining the functions, powers, and duties of such agency.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,*

### PART I

#### COMPACT

Whereas the signatory parties recognize the water and related resources of the Delaware River Basin as regional assets vested with local, State, and National interests, for which they have a joint responsibility; and

Delaware River  
Basin Compact.

Whereas the conservation, utilization, development, management, and control of the water and related resources of the Delaware River Basin under a comprehensive multipurpose plan will bring the greatest benefits and produce the most efficient service in the public welfare; and

Whereas such a comprehensive plan administered by a basinwide agency will provide effective flood damage reduction; conservation and development of ground and surface water supply for municipal, industrial, and agricultural uses; development of recreational facilities in relation to reservoirs, lakes, and streams; propagation of fish and game; promotion of related forestry, soil conservation, and watershed projects; protection and aid to fisheries dependent upon water resources; development of hydroelectric power potentialities; improved navigation; control of the movement of salt water; abatement and control of stream pollution; and regulation of stream flows toward the attainment of these goals; and

Whereas decisions of the United States Supreme Court relating to the waters of the basin have confirmed the interstate regional character of the water resources of the Delaware River Basin, and the United States Corps of Engineers has in a prior report on the Delaware River Basin (House Document 179, Seventy-third Congress, second session) officially recognized the need for an interstate agency and the economies that can result from unified development and control of the water resources of the basin; and

Whereas the water resources of the basin are presently subject to the duplicating, overlapping, and uncoordinated administration of some forty-three State agencies, fourteen interstate agencies, and nineteen Federal agencies which exercise a multiplicity of powers and duties resulting in a splintering of authority and responsibilities; and

Whereas the joint advisory body known as the Interstate Commission on the Delaware River Basin (INCODEL), created by the respective commissions or Committee on Interstate Cooperation of the States of Delaware, New Jersey, New York, and Pennsylvania, has on the basis of its extensive investigations, surveys, and studies concluded that regional development of the Delaware River Basin is feasible, advisable, and urgently needed; and has recommended that an interstate compact with Federal participation be consummated to this end; and

Whereas the Congress of the United States and the executive branch of the Government have recognized the national interest in the Delaware River Basin by authorizing and directing the Corps of Engineers, Department of the Army, to make a comprehensive survey and report on the water and related resources of the Delaware River Basin, enlisting the technical aid and planning participation of many Federal, State, and municipal agencies dealing with the waters of the basin, and in particular the Federal Departments of Agriculture, Commerce, Health, Education, and Welfare, and Interior, and the Federal Power Commission; and

Whereas some twenty-two million people of the United States at present live and work in the region of the Delaware River Basin and its environs, and the government, employment, industry, and economic development of the entire region and the health, safety, and general welfare of its population are and will continue to be vitally affected by the use, conservation, management, and control of the water and related resources of the Delaware River Basin; and

Whereas demands upon the waters and related resources of the basin are expected to mount rapidly because of the anticipated increase in the population of the region projected to reach thirty million by 1980 and forty million by 2010, and because of the anticipated increase in industrial growth projected to double by 1980; and

Whereas water resources planning and development is technical, complex, and expensive, and has often required fifteen to twenty years from the conception to the completion of a large dam and reservoir; and

Whereas the public interest requires that facilities must be ready and operative when needed, to avoid the catastrophe of unexpected floods or prolonged drought, and for other purposes; and

Whereas the Delaware River Basin Advisory Committee, a temporary body constituted by the Governors of the four basin States and the mayors of the cities of New York and Philadelphia, has prepared a draft of an interstate-Federal compact for the creation of a basin agency, and the signatory parties desire to effectuate the purposes thereof: Now therefore

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the United States hereby consents to, and joins the States of Delaware, New Jersey, and New York and the Commonwealth of Pennsylvania in, the following compact:

## ARTICLE 1

### SHORT TITLE, DEFINITIONS, PURPOSE AND LIMITATIONS

Section 1.1 Short title. This Act shall be known and may be cited as the Delaware River Basin Compact.

1.2 Definitions. For the purposes of this compact, and of any supplemental or concurring legislation enacted pursuant thereto, except as may be otherwise required by the context:

(a) "Basin" shall mean the area of drainage into the Delaware River and its tributaries, including Delaware Bay;

(b) "Commission" shall mean the Delaware River Basin Commission created and constituted by this compact;

(c) "Compact" shall mean Part I of this act;

(d) "Cost" shall mean direct and indirect expenditures, commitment, and net induced adverse effects, whether or not compensated for, used or incurred in connection with the establishment, acquisition, construction, maintenance and operation of a project;



(e) "Facility" shall mean any real or personal property, within or without the basin, and improvements thereof or thereon, and any and all rights of way, water, water rights, plants, structures, machinery and equipment, acquired, constructed, operated or maintained for the beneficial use of water resources or related land uses including, without limiting the generality of the foregoing, any and all things and appurtenances necessary, useful or convenient for the control, collection, storage, withdrawal, diversion, release, treatment, transmission, sale or exchange of water; or for navigation thereon, or the development and use of hydroelectric energy and power, and public recreational facilities; or the propagation of fish and wildlife; or to conserve and protect the water resources of the basin or any existing or future water supply source, or to facilitate any other uses of any of them;

(f) "Federal government" shall mean the government of the United States of America, and any appropriate branch, department, bureau or division thereof, as the case may be;

(g) "Project" shall mean any work, service or activity which is separately planned, financed, or identified by the commission, or any separate facility undertaken or to be undertaken within a specified area, for the conservation, utilization, control, development or management of water resources which can be established and utilized independently or as an addition to an existing facility, and can be considered as a separate entity for purposes of evaluation;

(h) "Signatory party" shall mean a state or commonwealth party to this compact, and the federal government;

(i) "Water resources" shall include water and related natural resources in, on, under, or above the ground, including related uses of land, which are subject to beneficial use, ownership or control.

1.3 Purpose and Findings. The legislative bodies of the respective signatory parties hereby find and declare:

(a) The water resources of the basin are affected with a local, state, regional and national interest and their planning, conservation, utilization, development, management and control, under appropriate arrangements for intergovernmental cooperation, are public purposes of the respective signatory parties.

(b) The water resources of the basin are subject to the sovereign right and responsibility of the signatory parties, and it is the purpose of this compact to provide for a joint exercise of such powers of sovereignty in the common interests of the people of the region.

(c) The water resources of the basin are functionally inter-related, and the uses of these resources are interdependent. A single administrative agency is therefore essential for effective and economical direction, supervision and coordination of efforts and programs of federal, state and local governments and of private enterprise.

(d) The water resources of the Delaware River Basin, if properly planned and utilized, are ample to meet all presently projected demands, including existing and added diversions in future years and ever increasing economies and efficiencies in the use and reuse of water resources can be brought about by comprehensive planning, programming and management.

(e) In general, the purposes of this compact are to promote interstate comity; to remove causes of present and future controversy; to make secure and protect present developments within the states; to encourage and provide for the planning, conservation, utilization, development, management and control of the water resources of the basin; to provide for cooperative planning and action by the signatory parties with respect to such water resources; and to apply the principle of equal and uniform treatment to all water users who are

similarly situated and to all users of related facilities, without regard to established political boundaries.

1.4 Powers of Congress; Withdrawal. Nothing in this compact shall be construed to relinquish the functions, powers or duties of the Congress of the United States with respect to the control of any navigable waters within the basin, nor shall any provision hereof be construed in derogation of any of the constitutional powers of the Congress to regulate commerce among the states and with foreign nations. The power and right of the Congress to withdraw the federal government as a party to this compact or to revise or modify the terms, conditions and provisions under which it may remain a party by amendment, repeal or modification of any federal statute applicable thereto is recognized by the signatory parties.

1.5 Existing Agencies; Construction. It is the purpose of the signatory parties to preserve and utilize the functions, powers and duties of existing offices and agencies of government to the extent not inconsistent with the compact, and the commission is authorized and directed to utilize and employ such offices and agencies for the purpose of this compact to the fullest extent it finds feasible and advantageous.

1.6 Duration of Compact.

(a) The duration of this compact shall be for an initial period of 100 years from its effective date, and it shall be continued for additional periods of 100 years if not later than 20 years nor sooner than 25 years prior to the determination of the initial period or any succeeding period none of the signatory states, by authority of an act of its legislature, notifies the commission of intention to terminate the compact at the end of the then current 100 year period.

(b) In the event that this compact should be terminated by operation of paragraph (a) above, the commission shall be dissolved, its assets and liabilities transferred, and its corporate affairs wound up, in such manner as may be provided by act of the Congress.

## ARTICLE 2

### ORGANIZATION AND AREA

Section 2.1 Commission Created. The Delaware River Basin Commission is hereby created as a body politic and corporate, with succession for the duration of this compact, as an agency and instrumentality of the governments of the respective signatory parties.

2.2 Commission Membership. The commission shall consist of the Governors of the signatory states, ex officio, and one commissioner to be appointed by the President of the United States to serve during the term of office of the President.

2.3 Alternates. Each member of the commission shall appoint an alternate to act in his place and stead, with authority to attend all meetings of the commission, and with power to vote in the absence of the member. Unless otherwise provided by law of the signatory party for which he is appointed, each alternate shall serve during the term of the member appointing him, subject to removal at the pleasure of the member. In the event of a vacancy in the office of alternate, it shall be filled in the same manner as an original appointment for the unexpired term only.

2.4 Compensation. Members of the commission and alternates shall serve without compensation but may be reimbursed for necessary expenses incurred in and incident to the performance of their duties.

2.5 Voting Power. Each member shall be entitled to one vote on all matters which may come before the commission. No action of the commission shall be taken at any meeting unless a majority of the membership shall vote in favor thereof.



2.6 Organization and Procedure. The commission shall provide for its own organization and procedure, and shall adopt rules and regulations governing its meetings and transactions. It shall organize annually by the election of a chairman and vice-chairman from among its members. It shall provide by its rules for the appointment by each member in his discretion of an advisor to serve without compensation, who may attend all meetings of the commission and its committees.

2.7 Jurisdiction of the Commission. The commission shall have, exercise and discharge its functions, powers and duties within the limits of the basin, except that it may in its discretion act outside the basin whenever such action may be necessary or convenient to effectuate its powers or duties within the basin, or to sell or dispose of water, hydroelectric power or other water resources within or without the basin. The commission shall exercise such power outside the basin only upon the consent of the state in which it proposes to act.

### ARTICLE 3

#### POWERS AND DUTIES OF THE COMMISSION

Section 3.1 Purpose and Policy. The commission shall develop and effectuate plans, policies and projects relating to the water resources of the basin. It shall adopt and promote uniform and coordinated policies for water conservation, control, use and management in the basin. It shall encourage the planning, development and financing of water resources projects according to such plans and policies.

3.2 Comprehensive Plan, Program and Budgets. The commission shall, in accordance with Article 13 of this compact, formulate and adopt:

(a) A comprehensive plan, after consultation with water users and interested public bodies, for the immediate and long range development and uses of the water resources of the basin;

(b) A water resources program, based upon the comprehensive plan, which shall include a systematic presentation of the quantity and quality of water resources needs of the area to be served for such reasonably foreseeable period as the commission may determine, balanced by existing and proposed projects required to satisfy such needs, including all public and private projects affecting the basin, together with a separate statement of the projects proposed to be undertaken by the commission during such period; and

(c) An annual current expense budget, and an annual capital budget consistent with the water resources program covering the commission's projects and facilities for the budget period.

3.3 Allocations, Diversions and Releases. The commission shall have the power from time to time as need appears, in accordance with the doctrine of equitable apportionment, to allocate the waters of the basin to and among the states signatory to this compact and to and among their respective political subdivisions, and to impose conditions, obligations and release requirements related thereto, subject to the following limitations:

(a) The commission, without the unanimous consent of the parties to the United States Supreme Court decree in *New Jersey v. New York*, 347 U.S. 995 (1954), shall not impair, diminish or otherwise adversely affect the diversions, compensating releases, rights, conditions, obligations, and provisions for the administration thereof as provided in said decree; provided, however, that after consultation with the river master under said decree the commission may find and declare a state of emergency resulting from a drought or catastrophe



and it may thereupon by unanimous consent of its members authorize and direct an increase or decrease in any allocation or diversion permitted or releases required by the decree, in such manner and for such limited time as may be necessary to meet such an emergency condition.

(b) No allocation of waters hereafter made pursuant to this section shall constitute a prior appropriation of the waters of the basin or confer any superiority of right in respect to the use of those waters, nor shall any such action be deemed to constitute an apportionment of the waters of the basin among the parties hereto: *Provided*, That this paragraph shall not be deemed to limit or restrict the power of the commission to enter into covenants with respect to water supply, with a duration not exceeding the life of this compact, as it may deem necessary for a benefit or development of the water resources of the basin.

(c) Any proper party deeming itself aggrieved by action of the commission with respect to an out-of-basin diversion or compensating releases in connection therewith, notwithstanding the powers delegated to the commission by this compact may invoke the original jurisdiction of the United States Supreme Court within one year after such action for an adjudication and determination thereof de novo. Any other action of the commission pursuant to this section shall be subject to judicial review in any court of competent jurisdiction.

3.4 Supreme Court Decree; Waivers. Each of the signatory states and their respective political subdivisions, in consideration of like action by the others, and in recognition of reciprocal benefits, hereby waives and relinquishes for the duration of this compact any right, privilege or power it may have to apply for any modification of the terms of the decree of the United States Supreme Court in *New Jersey v. New York*, 347 U.S. 995 (1954) which would increase or decrease the diversions authorized or increase or decrease the releases required thereunder, except that a proceeding to modify such decree to increase diversions or compensating releases in connection with such increased diversions may be prosecuted by a proper party to effectuate rights, powers, duties and obligations under Section 3.3 of this compact, and except as may be required to effectuate the provisions of paragraphs IIIB3 and VB of said decree.

3.5 Supreme Court Decree; Specific Limitations on Commission. Except as specifically provided in sections 3.3 and 3.4 of this article, nothing in this compact shall be construed in any way to impair, diminish or otherwise adversely affect the rights, powers, privileges, conditions and obligations contained in the decree of the United States Supreme Court in *New Jersey v. New York*, 347 U.S. 995 (1954). To this end, and without limitation thereto, the commission shall not:

(a) Acquire, construct or operate any project or facility or make any order or take any action which would impede or interfere with the rights, powers, privileges, conditions or obligations contained in said decree;

(b) Impose or collect any fee, charge or assessment with respect to diversions of waters of the basin permitted by said decree;

(c) Exercise any jurisdiction, except upon consent of all the parties to said decree, over the planning, design, construction, operation or control of any projects, structures or facilities constructed or used in connection with withdrawals, diversions and releases of waters of the basin authorized by said decree or of the withdrawals, diversions or releases to be made thereunder; or

(d) Serve as river master under said decree, except upon consent of all the parties thereto.

3.6 General Powers. The commission may:

(a) Plan, design, acquire, construct, reconstruct, complete, own, improve, extend, develop, operate and maintain any and all projects, facilities, properties, activities and services, determined by the commission to be necessary, convenient or useful for the purposes of this compact;

(b) Establish standards of planning, design and operation of all projects and facilities in the basin which affect its water resources, including without limitation thereto water and waste treatment plants, stream and lake recreational facilities, trunk mains for water distribution, local flood protection works, small watershed management programs, and ground water recharging operations;

(c) Conduct and sponsor research on water resources, their planning, use, conservation, management, development, control and protection, and the capacity, adaptability and best utility of each facility thereof, and collect, compile, correlate, analyze, report and interpret data on water resources and uses in the basin, including without limitation thereto the relation of water to other resources, industrial water technology, ground water movement, relation between water price and water demand, and general hydrological conditions;

(d) Compile and coordinate systematic stream stage and ground water level forecasting data, and publicize such information when and as needed for water uses, flood warning, quality maintenance or other purposes;

(e) Conduct such special ground water investigations tests, and operations and compile such data relating thereto as may be required to formulate and administer the comprehensive plan;

(f) Prepare, publish and disseminate information and reports with respect to the water problems of the basin and for the presentation of the needs, resources and policies of the basin to executive and legislative branches of the signatory parties;

(g) Negotiate for such loans, grants, services or other aids as may be lawfully available from public or private sources to finance or assist in effectuating any of the purposes of this compact; and to receive and accept such aid upon such terms and conditions, and subject to such provisions for repayment as may be required by federal or state law or as the commission may deem necessary or desirable;

(h) Exercise such other and different powers as may be delegated to it by this compact or otherwise pursuant to law, and have and exercise all powers necessary or convenient to carry out its express powers or which may be reasonably implied therefrom.

3.7 Rates and Charges. The commission may from time to time after public notice and hearing fix, alter and revise rates, rentals, charges and tolls and classifications thereof, for the use of facilities which it may own or operate and for products and services rendered thereby, without regulation or control by any department, office or agency of any signatory party.

3.8 Referral and Review. No project having a substantial effect on the water resources of the basin shall hereafter be undertaken by any person, corporation or governmental authority unless it shall have been first submitted to and approved by the commission, subject to the provisions of Sections 3.3 and 3.5. The commission shall approve a project whenever it finds and determines that such project would not substantially impair or conflict with the comprehensive plan and may modify and approve as modified, or may disapprove any such project whenever it finds and determines that the project would substantially impair or conflict with such plan. The commission shall provide by regulation for the procedure of submission, review and consideration of projects, and for its determinations pursuant to this section. Any



determination of the commission hereunder shall be subject to judicial review in any court of competent jurisdiction.

3.9 Coordination and Cooperation. The commission shall promote and aid the coordination of the activities and programs of federal, state, municipal and private agencies concerned with water resources administration in the basin. To this end, but without limitation thereto, the commission may:

(a) Advise, consult, contract, financially assist, or otherwise cooperate with any and all such agencies;

(b) Employ any other agency or instrumentality of any of the signatory parties or of any political subdivision thereof, in the design, construction, operation and maintenance of structures, and the installation and management of river control systems, or for any other purpose;

(c) Develop and adopt plans and specifications for particular water resources projects and facilities which so far as consistent with the comprehensive plan incorporate any separate plans of other public and private organizations operating in the basin, and permit the decentralized administration thereof;

(d) Qualify as a sponsoring agency under any federal legislation heretofore or hereafter enacted to provide financial or other assistance for the planning, conservation, utilization, development, management or control of water resources.

3.10 Advisory Committees. The commission may constitute and empower advisory committees, which may be comprised of representatives of the public and of federal, state, county and municipal governments, water resources agencies, water-using industries, water-interest groups, labor and agriculture.

#### ARTICLE 4

##### WATER SUPPLY

Section 4.1 Generally. The commission shall have power to develop, implement and effectuate plans and projects for the use of the water of the basin for domestic, municipal, agricultural and industrial water supply. To this end, without limitation thereto, it may provide for, construct, acquire, operate and maintain dams, reservoirs and other facilities for utilization of surface and ground water resources, and all related structures, appurtenances and equipment on the river and its tributaries and at such off-river sites as it may find appropriate, and may regulate and control the use thereof.

##### 4.2 Storage and Release of Waters.

(a) The commission shall have power to acquire, operate and control projects and facilities for the storage and release of waters, for the regulation of flows and supplies of surface and ground waters of the basin, for the protection of public health, stream quality control, economic development, improvement of fisheries, recreation, dilution and abatement of pollution, the prevention of undue salinity and other purposes.

(b) No signatory party shall permit any augmentation of flow to be diminished by the diversion of any water of the basin during any period in which waters are being released from storage under the direction of the commission for the purpose of augmenting such flow, except in cases where such diversion is duly authorized by this compact, or by the commission pursuant thereto, or by the judgment, order or decree of a court of competent jurisdiction.

4.3 Assessable Improvements. The commission may undertake to provide stream regulation in the main stream or any tributary in the



basin and may assess on an annual basis or otherwise the cost thereof upon water users or any classification of them specially benefited thereby to a measurable extent, provided that no such assessment shall exceed the actual benefit to any water user. Any such assessment shall follow the procedure prescribed by law for local improvement assessments and shall be subject to judicial review in any court of competent jurisdiction.

4.4 Coordination. Prior to entering upon the execution of any project authorized by this article, the commission shall review and consider all existing rights, plans and programs of the signatory parties, their political subdivisions, private parties, and water users which are pertinent to such project, and shall hold a public hearing on each proposed project.

4.5 Additional Powers. In connection with any project authorized by this article, the commission shall have power to provide storage, treatment, pumping and transmission facilities, but nothing herein shall be construed to authorize the commission to engage in the business of distributing water.

## ARTICLE 5

### POLLUTION CONTROL

Section 5.1 General Powers. The commission may undertake investigations and surveys, and acquire, construct, operate and maintain projects and facilities to control potential pollution and abate or dilute existing pollution of the water resources of the basin. It may invoke as complainant the power and jurisdiction of water pollution abatement agencies of the signatory parties.

5.2 Policy and Standards. The Commission may assume jurisdiction to control future pollution and abate existing pollution in the waters of the basin, whenever it determines after investigation and public hearing upon due notice that the effectuation of the comprehensive plan so requires. The standard of such control shall be that pollution by sewage or industrial or other waste originating within a signatory state shall not injuriously affect waters of the basin as contemplated by the comprehensive plan. The commission, after such public hearing may classify the waters of the basin and establish standards of treatment of sewage, industrial or other waste, according to such classes including allowance for the variable factors of surface and ground waters, such as size of the stream, flow, movement, location, character, self-purification, and usage of the waters affected. After such investigation, notice and hearing the commission may adopt and from time to time amend and repeal rules, regulations and standards to control such future pollution and abate existing pollution, and to require such treatment of sewage, industrial or other waste within a time reasonable for the construction of the necessary works, as may be required to protect the public health or to preserve the waters of the basin for uses in accordance with the comprehensive plan.

5.3 Cooperative Legislation and Administration. Each of the signatory parties covenants and agrees to prohibit and control pollution of the waters of the basin according to the requirements of this compact and to cooperate faithfully in the control of future pollution in and abatement of existing pollution from the rivers, streams, and waters in the basin which flow through, under, into or border upon any of such signatory states, and in order to effect such object, agrees to enact any necessary legislation to enable each such party to place and maintain the waters of said basin in a satisfactory condition, available for safe and satisfactory use as public and industrial water supplies after reasonable treatment, suitable for recreational usage,

capable of maintaining fish and other aquatic life, free from unsightly or malodorous nuisances due to floating solids or sludge deposits and adaptable to such other uses as may be provided by the comprehensive plan.

5.4 Enforcement. The commission may, after investigation and hearing, issue an order or orders upon any person or public or private corporation, or other entity, to cease the discharge of sewage, industrial or other waste into waters of the basin which it determines to be in violation of such rules and regulations as it shall have adopted for the prevention and abatement of pollution. Any such order or orders may prescribe the date, including a reasonable time for the construction of any necessary works, on or before which such discharge shall be wholly or partially discontinued, modified or treated, or otherwise conformed to the requirements of such rules and regulations. Such order shall be reviewable in any court of competent jurisdiction. The courts of the signatory parties shall have jurisdiction to enforce against any person, public or private corporation, or other entity, any and all provisions of this Article or of any such order. The commission may bring an action in its own name in any such court of competent jurisdiction to compel compliance with any provision of this Article, or any rule or regulation issued pursuant thereto or of any such order, according to the practice and procedure of the court.

5.5 Further Jurisdiction. Nothing in this compact shall be construed to repeal, modify or qualify the authority of any signatory party to enact any legislation or enforce any additional conditions and restrictions to lessen or prevent the pollution of waters within its jurisdiction.

## ARTICLE 6

### FLOOD PROTECTION

Section 6.1 General Powers. The commission may plan, design, construct and operate and maintain projects and facilities, as it may deem necessary or desirable for flood damage reduction. It shall have power to operate such facilities and to store and release waters on the Delaware River and its tributaries and elsewhere within the basin, in such manner, at such times, and under such regulations as the commission may deem appropriate to meet flood conditions as they may arise.

#### 6.2 Flood Plain Zoning.

(a) The commission shall have power to adopt, amend and repeal recommended standards, in the manner provided by this section, relating to the nature and extent of the uses of land in areas subject to flooding by waters of the Delaware River and its tributaries. Such standards shall not be deemed to impair or restrict the power of the signatory parties or their political subdivisions to adopt zoning and other land use regulations not inconsistent therewith.

(b) The commission may study and determine the nature and extent of the flood plains of the Delaware River and its tributaries. Upon the basis of such studies, it may establish encroachment lines and delineate the areas subject to flood, including a classification of lands with reference to relative risk of flood and the establishment of standards for flood plain use which will safeguard the public health, safety and property. Prior to the adoption of any standards delineating such area or defining such use, the commission shall hold public hearings, in the manner provided by Article 14, with respect to the substance of such standards. At or before such public hearings the proposed standards shall be available, and all interested persons shall be given an opportunity to be heard thereon at the hearing. Upon the adoption and promulgation of such standards, the commission may enter into agreements to provide technical and financial aid to any

municipal corporation for the administration and enforcement of any local land use ordinances or regulations giving effect to such standards.

6.3 Flood Lands Acquisition. The commission shall have power to acquire the fee or any lesser interest in lands and improvements thereon within the area of a flood plain for the purpose of restricting the use of such property so as to minimize the flood hazard, converting property to uses appropriate to flood plain conditions, or preventing unwarranted constrictions that reduce the ability of the river channel to carry flood water. Any such action shall be in accord with the standards adopted and promulgated pursuant to Section 6.2.

6.4 Flood and Stream Stage Warnings and Posting. The commission may cause lands particularly subject to flood to be posted with flood hazard warnings, and may from time to time cause flood advisory notices to be published and circulated as conditions may warrant.

## ARTICLE 7

### WATERSHED MANAGEMENT

Section 7.1 Watersheds Generally. The commission shall promote sound practices of watershed management in the basin, including projects and facilities to retard runoff and waterflow and prevent soil erosion.

7.2 Soil Conservation and Forestry. The commission may acquire, sponsor or operate facilities and projects to encourage soil conservation, prevent and control erosion, and to promote land reclamation and sound forestry practices.

7.3 Fish and Wildlife. The commission may acquire, sponsor or operate projects and facilities for the maintenance and improvement of fish and wildlife habitats related to the water resources of the basin.

7.4 Cooperative Planning and Operation.

(a) The commission shall cooperate with the appropriate agencies of the signatory parties and with other public and private agencies in the planning and effectuation of a coordinated program of facilities and projects authorized by this Article.

(b) The commission shall not operate any such project or facility unless it has first found and determined that no other suitable unit or agency of government is available to operate the same upon reasonable conditions, in accordance with the intent and purpose expressed in Section 1.5 of this compact.

## ARTICLE 8

### RECREATION

Section 8.1 Development. The commission shall provide for the development of water related public sports and recreational facilities. The commission on its own account or in cooperation with a signatory party, political subdivision or any agency thereof, may provide for the construction, maintenance and administration of such facilities, subject to the provisions of Section 8.2 hereof.

8.2 Cooperative Planning and Operation.

(a) The commission shall cooperate with the appropriate agencies of the signatory parties and with other public and private agencies in the planning and effectuation of a coordinated program of facilities and projects authorized by this article.

(b) The commission shall not operate any such project or facility unless it has first found and determined that no other suitable unit or agency of government is available to operate the same upon reasonable



conditions, in accordance with the intent and purpose expressed in Section 1.5 of this compact.

8.3 Operation and Maintenance. The commission, within limits prescribed by this article, shall:

(a) Encourage activities of other public agencies having water related recreational interests and assist in the coordination thereof;

(b) Recommend standards for the development and administration of water related recreational facilities;

(c) Provide for the administration, operation and maintenance of recreational facilities owned or controlled by the commission and for the letting and supervision of private concessions in accordance with this article.

8.4 Concessions. The commission shall after notice and public hearing provide by regulation for the award of contracts for private concessions in connection with recreational facilities, including any renewal or extension thereof, upon sealed competitive bids after public advertisement therefor.

## ARTICLE 9

### HYDROELECTRIC POWER

Section 9.1 Development. The waters of the Delaware River and its tributaries may be impounded and used by or under authority of the commission for the generation of hydroelectric power and hydroelectric energy, in accordance with the comprehensive plan.

9.2 Power Generation. The commission may develop and operate, or authorize to be developed and operated, dams and related facilities and appurtenances for the purpose of generating hydroelectric power and hydroelectric energy.

9.3 Transmission. The commission may provide facilities for the transmission of hydroelectric power and hydroelectric energy produced by it where such facilities are not otherwise available upon reasonable terms, for the purpose of wholesale marketing of power and nothing herein shall be construed to authorize the commission to engage in the business of direct sale to consumers.

9.4 Development Contracts. The commission may after public notice and hearing enter into contracts on reasonable terms, consideration and duration under which public utilities or public agencies may develop hydroelectric power and hydroelectric energy through the use of dams, related facilities and appurtenances.

9.5 Rates and Charges. Rates and charges fixed by the commission for power which is produced by its facilities shall be reasonable, nondiscriminatory, and just.

## ARTICLE 10

### REGULATION OF WITHDRAWALS AND DIVERSIONS

Section 10.1 Power of Regulation. The Commission may regulate and control withdrawals and diversions from surface waters and ground waters of the basin, as provided by this article. The commission may enter into agreements with the signatory parties relating to the exercise of such power or regulation or control and may delegate to any of them such powers of the commission as it may deem necessary or desirable.

10.2 Determination of Protected Areas. The commission may from time to time after public hearing upon due notice determine and delineate such areas within the basin wherein the demands upon supply made by water users have developed or threaten to develop to such a degree as to create a water shortage or to impair or conflict with the

requirements or effectuation of the comprehensive plan, and any such areas may be designated as "protected areas." The commission, whenever it determines that such shortage no longer exists, shall terminate the protected status of such area and shall give public notice of such termination.

10.3 Withdrawal Permits. In any protected areas so determined and delineated, no person, firm, corporation or other entity shall divert or withdraw water for domestic, municipal, agricultural or industrial uses in excess of such quantities as the commission may prescribe by general regulation, except (i) pursuant to a permit granted under this article, or (ii) pursuant to a permit or approval heretofore granted under the laws of any of the signatory states.

10.4 Emergency. In the event of a drought or other condition which may cause an actual and immediate shortage of available water supply within the basin, or within any part thereof, the commission may, after public hearing, determine and delineate the area of such shortage and declare a water supply emergency therein. For the duration of such emergency as determined by the commission no person, firm, corporation or other public or private entity shall divert or withdraw water for any purpose, in excess of such quantities as the commission may prescribe by general regulation or authorize by special permit granted hereunder.

10.5 Standards. Permits shall be granted, modified or denied as the case may be so as to avoid such depletion of the natural stream flows and ground waters in the protected area or in an emergency area as will adversely affect the comprehensive plan or the just and equitable interests and rights of other lawful users of the same source, giving due regard to the need to balance and reconcile alternative and conflicting uses in the event of an actual or threatened shortage of water of the quality required.

10.6 Judicial Review. The determinations and delineations of the commission pursuant to Section 10.2 and the granting, modification or denial of permits pursuant to Section 10.3 through 10.5 shall be subject to judicial review in any court of competent jurisdiction.

10.7 Maintenance of Records. Each state shall provide for the maintenance and preservation of such records of authorized diversions and withdrawals and the annual volume thereof as the commission shall prescribe. Such records and supplementary reports shall be furnished to the commission at its request.

10.8 Existing State Systems. Whenever the commission finds it necessary or desirable to exercise the powers conferred by this article any diversion or withdrawal permits authorized or issued under the laws of any of the signatory states shall be superseded to the extent of any conflict with the control and regulation exercised by the commission.

## ARTICLE 11

### INTERGOVERNMENTAL RELATIONS

Section 11.1 Federal Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern federal projects affecting the water resources of the basin, subject in each case to the provisions of Section 1.4 of this compact:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility nor shall it be deemed authorized, unless it shall have first been included by the commission in the comprehensive plan;

(c) Each federal agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority except as specifically provided by this section.

11.2 State and Local Agencies and Projects. For the purposes of avoiding conflicts of jurisdiction and of giving full effect to the commission as a regional agency of the signatory parties, the following rules shall govern projects of the signatory states, their political subdivisions and public corporations affecting water resources of the basin:

(a) The planning of all projects related to powers delegated to the commission by this compact shall be undertaken in consultation with the commission;

(b) No expenditure or commitment shall be made for or on account of the construction, acquisition or operation of any project or facility unless it shall have first been included by the commission in the comprehensive plan;

(c) Each state and local agency otherwise authorized by law to plan, design, construct, operate or maintain any project or facility in or for the basin shall continue to have, exercise and discharge such authority, except as specifically provided by this section.

11.3. Reserved Taxing Powers of States. Each of the signatory parties reserves the right to levy, assess and collect fees, charges and taxes on or measured by the withdrawal or diversion of waters of the basin for use within the jurisdictions of the respective signatory parties.

11.4 Project Costs and Evaluation Standards. The commission shall establish uniform standards and procedures for the evaluation, determination of benefits, and cost allocations of projects affecting the basin, and for the determination of project priorities, pursuant to the requirements of the comprehensive plan and its water resources program. The commission shall develop equitable cost sharing and reimbursement formulas for the signatory parties including:

(a) Uniform and consistent procedures for the allocation of project costs among purposes included in multiple-purpose programs;

(b) Contracts and arrangements for sharing financial responsibility among and with signatory parties, public bodies, groups and private enterprise, and for the supervision of their performance;

(c) Establishment and supervision of a system of accounts for reimbursable purposes and directing the payments and charges to be made from such accounts;

(d) Determining the basis and apportioning amounts (i) of reimbursable revenues to be paid signatory parties or their political subdivisions, and (ii) of payments in lieu of taxes to any of them.

11.5 Cooperative Services. The commission shall furnish technical services, advice and consultation to authorized agencies of the signatory parties with respect to the water resources of the basin, and each of the signatory parties pledges itself to provide technical and administrative services to the commission upon request, within the limits of available appropriations and to cooperate generally with the commission for the purposes of this compact, and the cost of such services may be reimbursable whenever the parties deem appropriate.



## ARTICLE 12

## CAPITAL FINANCING

Section 12.1 Borrowing Power. The commission may borrow money for any of the purposes of this compact, and may issue its negotiable bonds and other evidences of indebtedness in respect thereto. All such bonds and evidences of indebtedness shall be payable solely out of the properties and revenues of the commission without recourse to taxation. The bonds and other obligations of the commission, except as may be otherwise provided in the indenture under which they were issued, shall be direct and general obligations of the commission and the full faith and credit of the commission are hereby pledged for the prompt payment of the debt service thereon and for the fulfillment of all other undertakings of the commission assumed by it to or for the benefit of the holders thereof.

12.2 Funds and Expenses. The purposes of this compact shall include without limitation thereto all costs of any project or facility or any part thereof, including interest during a period of construction and a reasonable time thereafter and any incidental expenses (legal, engineering, fiscal, financial consultant and other expenses) connected with issuing and disposing of the bonds; all amounts required for the creation of an operating fund, construction fund, reserve fund, sinking fund, or other special fund; all other expenses connected with the planning, design, acquisition, construction, completion, improvement or reconstruction of any facility or any part thereof; and reimbursement of advances by the commission or by others for such purposes and for working capital.

12.3 Credit Excluded; Officers, State and Municipal. The commission shall have no power to pledge the credit of any signatory party, or of any county or municipality, or to impose any obligation for payment of the bonds upon any signatory party or any county or municipality. Neither the commissioners nor any person executing the bonds shall be liable personally on the bonds of the commission or be subject to any personal liability or accountability by reason of the issuance thereof.

12.4 Funding and Refunding. Whenever the commission deems it expedient, it may fund and refund its bonds and other obligations whether or not such bonds and obligations have matured. It may provide for the issuance, sale or exchange of refunding bonds for the purpose of redeeming or retiring any bonds (including the payment of any premium, duplicate interest or cash adjustment required in connection therewith) issued by the commission or issued by any other issuing body, the proceeds of the sale of which have been applied to any facility acquired by the commission or which are payable out of the revenues of any facility acquired by the commission. Bonds may be issued partly to refund bonds and other obligations then outstanding, and partly for any other purpose of the commission. All provisions of this compact applicable to the issuance of bonds are applicable to refunding bonds and to the issuance, sale or exchange thereof.

12.5 Bonds; Authorization Generally. Bonds and other indebtedness of the commission shall be authorized by resolution of the commission. The validity of the authorization and issuance of any bonds by the commission shall not be dependent upon nor affected in any way by: (i) the disposition of bond proceeds by the commission or by contract, commitment or action taken with respect to such proceeds; or (ii) the failure to complete any part of the project for which bonds are authorized to be issued. The commission may issue bonds in one or more series and may provide for one or more consolidated

bond issues, in such principal amounts and with such terms and provisions as the commission may deem necessary. The bonds may be secured by a pledge of all or any part of the property, revenues and franchises under its control. Bonds may be issued by the commission in such amount, with such maturities and in such denominations and form or forms, whether coupon or registered, as to both principal and interest, as may be determined by the commission. The commission may provide for redemption of bonds prior to maturity on such notice and at such time or times and with such redemption provisions, including premiums, as the commission may determine.

12.6 Bonds; Resolutions and Indentures Generally. The commission may determine and enter into indentures providing for the principal amount, date or dates, maturities, interest rate, denominations, form, registration, transfer, interchange and other provisions of the bonds and coupons and the terms and conditions upon which the same shall be executed, issued, secured, sold, paid, redeemed, funded and refunded. The resolution of the commission authorizing any bond or any indenture so authorized under which the bonds are issued may include all such covenants and other provisions other than any restriction on the regulatory powers vested in the commission by this compact as the commission may deem necessary or desirable for the issue, payment, security, protection or marketing of the bonds, including without limitation covenants and other provisions as to the rates or amounts of fees, rents and other charges to be charged or made for use of the facilities; the use, pledge, custody, securing, application and disposition of such revenues, of the proceeds of the bonds, and of any other moneys of the commission; the operation, maintenance, repair and reconstruction of the facilities and the amounts which may be expended therefor; the sale, lease or other disposition of the facilities; the insuring of the facilities and of the revenues derived therefrom; the construction or other acquisition of other facilities; the issuance of additional bonds or other indebtedness; the rights of the bondholders and of any trustee for the bondholders upon default by the commission or otherwise; and the modification of the provisions of the indenture and of the bonds. Reference on the face of the bonds to such resolution or indenture by its date of adoption or the apparent date on the face thereof is sufficient to incorporate all of the provisions thereof and of this compact into the body of the bonds and their appurtenant coupons. Each taker and subsequent holder of the bonds or coupons, whether the coupons are attached to or detached from the bonds, has recourse to all of the provisions of the indenture and of this compact and is bound thereby.

12.7 Maximum Maturity. No bond or its terms shall mature in more than fifty years from its own date and in the event any authorized issue is divided into two or more series or divisions, the maximum maturity date herein authorized shall be calculated from the date on the face of each bond separately, irrespective of the fact that different dates may be prescribed for the bonds of each separate series or division of any authorized issue.

12.8 Tax Exemption. All bonds issued by the commission under the provisions of this compact and the interest thereof shall at all times be free and exempt from all taxation by or under authority of any of the signatory parties, except for transfer, inheritance and estate taxes.

12.9 Interest. Bonds shall bear interest at a rate of not to exceed six percent per annum, payable annually or semi-annually.

12.10 Place of Payment. The commission may provide for the payment of the principal and interest of bonds at any place or places within or without the signatory states, and in any specified lawful coin or currency of the United States of America.



12.11 Execution. The commission may provide for the execution and authentication of bonds by the manual, lithographed or printed facsimile signature of officers of the commission, and by additional authentication by a trustee or fiscal agent appointed by the commission. If any of the officers whose signatures or counter signatures appear upon the bonds or coupons cease to be officers before the delivery of the bonds or coupons, their signatures or counter signatures are nevertheless valid and of the same force and effect as if the officers had remained in office until the delivery of the bonds and coupons.

12.12 Holding Own Bonds. The Commission shall have power out of any funds available therefor to purchase its bonds and may hold, cancel or resell such bonds.

12.13 Sale. The commission may fix terms and conditions for the sale or other disposition of any authorized issue of bonds. The commission may sell bonds at less than their par or face value but no issue of bonds may be sold at an aggregate price below the par or face value thereof if such sale would result in a net interest cost to the commission calculated upon the entire issue so sold of more than six percent per annum payable semi-annually, according to standard tables of bond values. All bonds issued and sold for cash pursuant to this act shall be sold on sealed proposals to the highest bidder. Prior to such sale, the commission shall advertise for bids by publication of a notice of sale not less than ten days prior to the date of sale, at least once in a newspaper of general circulation printed and published in New York City carrying municipal bond notices and devoted primarily to financial news. The commission may reject any and all bids submitted and may thereafter sell the bonds so advertised for sale at private sale to any financially responsible bidder under such terms and conditions as it deems most advantageous to the public interest, but the bonds shall not be sold at a net interest cost calculated upon the entire issue so advertised, greater than the lowest bid which was rejected. In the event the commission desires to issue its bonds in exchange for an existing facility or portion thereof, or in exchange for bonds secured by the revenues of an existing facility, it may exchange such bonds for the existing facility or portion thereof or for the bonds so secured, plus an additional amount of cash, without advertising such bonds for sale.

12.14 Negotiability. All bonds issued under the provisions of this compact are negotiable instruments, except when registered in the name of a registered owner.

12.15 Legal Investments. Bonds of the commission shall be legal investments for savings banks, fiduciaries and public funds in each of the signatory states.

12.16 Validation Proceedings. Prior to the issuance of any bonds, the commission may institute a special proceeding to determine the legality of proceedings to issue the bonds and their validity under the laws of any of the signatory parties. Such proceeding shall be instituted and prosecuted in rem and the judgment rendered therein shall be conclusive against all persons whomsoever and against each of the signatory parties.

12.17 Recording. No indenture need be recorded or filed in any public office, other than the office of the commission. The pledge of revenues provided in any indenture shall take effect forthwith as provided therein and irrespective of the date of receipts of such revenues by the commission or the indenture trustee. Such pledge shall be effective as provided in the indenture without physical delivery of the revenues to the commission or to the indenture trustee.



12.18 Pledged Revenues. Bond redemption and interest payments shall, to the extent provided in the resolution or indenture, constitute a first, direct and exclusive charge and lien on all such rates, rents, tolls, fees and charges and other revenues and interest thereon received from the use and operation of the facility, and on any sinking or other funds created therefrom. All such rates, rents, tolls, fees, charges and other revenues, together with interest thereon, shall constitute a trust fund for the security and payment of such bonds and except as and to the extent provided in the indenture with respect to the payment therefrom of expenses for other purposes including administration, operation, maintenance, improvements or extensions of the facilities or other purposes shall not be used or pledged for any other purpose so long as such bonds, or any of them, are outstanding and unpaid.

12.19 Remedies. The holder of any bond may for the equal benefit and protection of all holders of bonds similarly situated: (a) by mandamus or other appropriate proceedings require and compel the performance of any of the duties imposed upon the commission or assumed by it, its officers, agents or employees under the provisions of any indenture, in connection with the acquisition, construction, operation, maintenance, repair, reconstruction or insurance of the facilities, or in connection with the collection, deposit, investment, application and disbursement of the rates, rents, tolls, fees, charges and other revenues derived from the operation and use of the facilities, or in connection with the deposit, investment and disbursement of the proceeds received from the sale of bonds; or (b) by action or suit in a court of competent jurisdiction of any signatory party require the commission to account as if it were the trustee of an express trust, or enjoin any acts or things which may be unlawful or in violation of the rights of the holders of the bonds. The enumeration of such rights and remedies does not, however, exclude the exercise or prosecution of any other rights or remedies available to the holders of bonds.

12.20 Capital Financing by Signatory Parties; Guarantees.

(a) The signatory parties will provide such capital funds required for projects of the commission as may be authorized by their respective statutes in accordance with a cost sharing plan prepared pursuant to Article 11 of this compact; but nothing in this section shall be deemed to impose any mandatory obligation on any of the signatory parties other than such obligations as may be assumed by a signatory party in connection with a specific project or facility.

(b) Bonds of the commission, notwithstanding any other provision of this compact, may be executed and delivered to any duly authorized agency of any of the signatory parties without public offering and may be sold and resold with or without the guaranty of such signatory party, subject to and in accordance with the constitutions of the respective signatory parties.

(c) The commission may receive and accept, and the signatory parties may make, loans, grants, appropriations, advances and payments of reimbursable or non-reimbursable funds or property in any form for the capital or operating purposes of the commission.

## ARTICLE 13

## PLAN, PROGRAM AND BUDGETS

Section 13.1 Comprehensive Plan. The commission shall develop and adopt, and may from time to time review and revise, a comprehensive plan for the immediate and long range development and use of the water resources of the basin. The plan shall include all public and private projects and facilities which are required, in the judgment of the commission, for the optimum planning, development, conservation, utilization, management and control of the water resources of the basin to meet present and future needs; provided that the plan shall include any projects required to conform with any present or future decree or judgment of any court of competent jurisdiction. The commission may adopt a comprehensive plan or any revision thereof in such part or parts as it may deem appropriate, provided that before the adoption of the plan or any part or revision thereof the commission shall consult with water users and interested public bodies and public utilities and shall consider and give due regard to the findings and recommendations of the various agencies of the signatory parties and their political subdivisions. The commission shall conduct public hearings with respect to the comprehensive plan prior to the adoption of the plan or any part of the revision thereof.

13.2 Water Resources Program. The commission shall annually adopt a water resources program, based upon the comprehensive plan, consisting of the projects and facilities which the commission proposes to be undertaken by the commission and by other authorized governmental and private agencies, organizations and persons during the ensuing six years or such other reasonably foreseeable period as the commission may determine. The water resources program shall include a systematic presentation of:

- 1) the quantity and quality of water resources needs for such period;
- 2) the existing and proposed projects and facilities required to satisfy such needs, including all public and private projects to be anticipated;
- 3) a separate statement of the projects proposed to be undertaken by the commission during such period.

13.3 Annual Current Expense and Capital Budgets.

(a) The commission shall annually adopt a capital budget including all capital projects it proposes to undertake or continue during the budget period containing a statement of the estimated cost of each project and the method of financing thereof.

(b) The commission shall annually adopt a current expense budget for each fiscal year. Such budget shall include the commission's estimated expenses for administration, operation, maintenance and repairs, including a separate statement thereof for each project, together with its cost allocation. The total of such expenses shall be balanced by the commission's estimated revenues from all sources, including the cost allocations undertaken by any of the signatory parties in connection with any project. Following the adoption of the annual current expense budget by the commission, the executive director of the commission shall:

- 1) certify to the respective signatory parties the amounts due in accordance with existing cost sharing established for each project; and

- 2) transmit certified copies of such budget to the principal budget officer of the respective signatory parties at such time and in such manner as may be required under their respective budgetary procedures. The amount required to balance the current

expense budget in addition to the aggregate amount of item (1) above and all other revenues available to the commission shall be apportioned equitably among the signatory parties by unanimous vote of the commission, and the amount of such apportionment to each signatory party shall be certified together with the budget.

(c) The respective signatory parties covenant and agree to include the amounts so apportioned for the support of the current expense budget in their respective budgets next to be adopted, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the commission in quarterly installments during its fiscal year, provided that the commission may draw upon its working capital to finance its current expense budget pending remittances by the signatory parties.

#### ARTICLE 14

##### GENERAL PROVISIONS

Section 14.1 Auxiliary Powers of Commission; Functions of Commissioners.

(a) The commission, for the purposes of this compact, may:

1) Adopt and use a corporate seal, enter into contracts, sue and be sued in all courts of competent jurisdiction;

2) Receive and accept such payments, appropriations, grants, gifts, loans, advances and other funds, properties and services as may be transferred or made available to it by any signatory party or by any other public or private corporation or individual, and enter into agreements to make reimbursement for all or part thereof;

3) Provide for, acquire and adopt detailed engineering, administrative, financial and operating plans and specifications to effectuate, maintain or develop any facility or project;

4) Control and regulate the use of facilities owned or operated by the commission;

5) Acquire, own, operate, maintain, control, sell and convey real and personal property and any interest therein by contract, purchase, lease, license, mortgage or otherwise as it may deem necessary for any project or facility, including any and all appurtenances thereto necessary, useful or convenient for such ownership, operation, control, maintenance or conveyance;

6) Have and exercise all corporate powers essential to the declared objects and purposes of the commission.

(b) The commissioners, subject to the provisions of this compact, shall:

1) Serve as the governing body of the commission, and exercise and discharge its powers and duties except as otherwise provided by or pursuant to this compact;

2) Determine the character of and the necessity for its obligations and expenditures and the manner in which they shall be incurred, allowed, and paid subject to any provisions of law specifically applicable to agencies or instrumentalities created by compact;

3) Provide for the internal organization and administration of the commission;

4) Appoint the principal officers of the commission and delegate to and allocate among them administrative functions, powers and duties;

5) Create and abolish offices, employments and position as it deems necessary for the purposes of the commission, and subject to the provisions of this article, fix and provide for the qualifica-



tion, appointment, removal, term, tenure, compensation, pension and retirement rights of its officers and employees;

6) Let and execute contracts to carry out the powers of the commission.

14.2 Regulations; Enforcement. The commission may:

(a) Make and enforce reasonable rules and regulations for the effectuation, application and enforcement of this compact; and it may adopt and enforce practices and schedules for or in connection with the use, maintenance and administration of projects and facilities it may own or operate and any product or service rendered thereby; provided that any rule or regulation, other than one which deals solely with the internal management of the commission, shall be adopted only after public hearing and shall not be effective unless and until filed in accordance with the law of the respective signatory parties applicable to administrative rules and regulations generally; and

(b) Designate any officer, agent or employee of the commission to be an investigator or watchman and such person shall be vested with the powers of a peace officer of the state in which he is duly assigned to perform his duties.

14.3 Tax Exemption. The commission, its property, functions, and activities shall be exempt from taxation by or under the authority of any of the signatory parties or any political subdivision thereof; provided that in lieu of property taxes the commission shall, as to specific projects, make payments to local taxing districts in annual amounts which shall equal the taxes lawfully assessed upon property for the tax year next prior to its acquisition by the commission for a period of ten years. The nature and amount of such payments shall be reviewed by the commission at the end of ten years, and from time to time thereafter, upon reasonable notice and opportunity to be heard to the affected taxing district, and the payments may be thereupon terminated or continued in such reasonable amount as may be necessary or desirable to take into account hardships incurred and benefits received by the taxing jurisdiction which are attributable to the project.

14.4 Meetings; Public Hearing; Records, Minutes.

(a) All meetings of the commission shall be open to the public.

(b) The commission shall conduct at least one public hearing prior to the adoption of the comprehensive plan, water resources program, annual capital and current expense budgets, the letting of any contract for the sale or other disposition by the commission of hydro-electric energy or water resources to any person, corporation or entity, and in all other cases wherein this compact requires a public hearing. Such hearing shall be held upon at least ten days public notice given by posting at the offices of the commission. The commission shall also provide forthwith for distribution of such notice to the press and by the mailing of a copy thereof to any person who shall request such notices.

(c) The minutes of the commission shall be a public record open to inspection at its offices during regular business hours.

14.5 Officers Generally.

(a) The officers of the commission shall consist of an executive director and such additional officers, deputies and assistants as the commission may determine. The executive director shall be appointed and may be removed by the affirmative vote of a majority of the full membership of the commission. All other officers and employees shall be appointed by the executive director under such rules of procedure as the commission may determine.

(b) In the appointment and promotion of officers and employees for the commission, no political, racial, religious or residence test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be solely on the basis of merit and fitness. Any officer or employee of the commission who is found by the commission to be guilty of a violation of this section shall be removed from office by the commission.

14.6 Oath of Office. An oath of office in such form as the commission shall prescribe shall be taken, subscribed and filed with the commission by the executive director and by each officer appointed by him not later than fifteen days after the appointment.

14.7 Bond. Each officer shall give such bond and in such form and amount as the commission may require for which the commission may pay the premium.

14.8 Prohibited Activities.

(a) No commissioner, officer or employee shall:

1) be financially interested, either directly or indirectly, in any contract, sale, purchase, lease or transfer of real or personal property to which the commission is a party;

2) solicit or accept money or any other thing of value in addition to the compensation or expenses paid him by the commission for services performed within the scope of his official duties;

3) offer money or any thing of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the commission.

(b) Any officer or employee who shall willfully violate any of the provisions of this section shall forfeit his office or employment.

(c) Any contract or agreement knowingly made in contravention of this section is void.

(d) Officers and employees of the commission shall be subject in addition to the provisions of this section to such criminal and civil sanctions for misconduct in office as may be imposed by federal law and the law of the signatory state in which such misconduct occurs.

14.9 Purchasing. Contract for the construction, reconstruction or improvement of any facility when the expenditure required exceeds ten thousand dollars and contracts for the purchase of services, supplies, equipment and materials when the expenditure required exceeds two thousand five hundred dollars shall be advertised and let upon sealed bids to the lowest responsible bidder. Notice requesting such bids shall be published in a manner reasonably likely to attract prospective bidders, which publication shall be made at least ten days before bids are received and in at least two newspapers of general circulation in the basin. The commission may reject any and all bids and readvertise in its discretion. If after rejecting bids the commission determines and resolves that in its opinion the supplies, equipment and materials may be purchased at a lower price in the open market, the commission may give each responsible bidder an opportunity to negotiate a price and may proceed to purchase the supplies, equipment and materials in the open market at a negotiated price which is lower than the lowest rejected bid of a responsible bidder, without further observance of the provisions requiring bids or notice. The commission shall adopt rules and regulations to provide for purchasing from the lowest responsible bidder when sealed bids, notice and publication are not required by this section. The commission may suspend and waive the provisions of this section requiring competitive bids whenever:

1) the purchase is to be made from or the contract to be made with the federal or any state government or any agency or political subdivision thereof or pursuant to any open end bulk purchase contract of any of them;



2) the public exigency requires the immediate delivery of the articles or performance of the service;

3) only one source of supply is available;

4) the equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest; or

5) services are to be provided of a specialized or professional nature.

14.10 Insurance. The commission may self-insure or purchase insurance and pay the premiums therefor against loss or damage to any of its properties; against liability for injury to persons or property; and against loss of revenue from any cause whatsoever. Such insurance coverage shall be in such form and amount as the commission may determine, subject to the requirements of any agreement arising out of the issuance of bonds by the commission.

14.11 Annual Independent Audit.

(a) As soon as practical after the closing of the fiscal year, an audit shall be made of the financial accounts of the commission. The audit shall be made by qualified certified public accountants selected by the commission, who have no personal interest direct or indirect in the financial affairs of the commission or any of its officers or employees. The report of audit shall be prepared in accordance with accepted accounting practices and shall be filed with the chairman and such other officers as the commission shall direct. Copies of the report shall be distributed to each commissioner and shall be made available for public distribution.

(b) Each signatory party by its duly authorized officers shall be entitled to examine and audit at any time all of the books, documents, records, files and accounts and all other papers, things or property of the commission. The representatives of the signatory parties shall have access to all books, documents, records, accounts, reports, files and all other papers, things or property belonging to or in use by the commission and necessary to facilitate the audit and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents and custodians.

(c) The financial transactions of the commission shall be subject to audit by the general accounting office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the comptroller general of the United States. The audit shall be conducted at the place or places where the accounts of the commission are kept.

(d) Any officer or employee who shall refuse to give all required assistance and information to the accountants selected by the commission or to the authorized officers of any signatory party or who shall refuse to submit to them for examination such books, documents, records, files, accounts, papers, things or property as may be requested shall forfeit his office.

14.12 Reports. The commission shall make and publish an annual report to the legislative bodies of the signatory parties and to the public reporting on its programs, operations and finances. It may also prepare, publish and distribute such other public reports and informational materials as it may deem necessary or desirable.

14.13 Grants, Loans or Payments by States or Political Subdivisions.

(a) Any or all of the signatory parties or any political subdivision thereof may:



1) Appropriate to the commission such funds as may be necessary to pay preliminary expenses such as the expenses incurred in the making of borings, and other studies of subsurface conditions, in the preparation of contracts for the sale of water and in the preparation of detailed plans and estimates required for the financing of a project;

2) Advance to the commission, either as grants or loans, such funds as may be necessary or convenient to finance the operation and management of or construction by the commission of any facility or project;

3) Make payments to the commission for benefits received or to be received from the operation of any of the projects or facilities of the commission.

(b) Any funds which may be loaned to the commission either by a signatory party or a political subdivision thereof shall be repaid by the commission through the issuance of bonds or out of other income of the commission, such repayment to be made within such period and upon such terms as may be agreed upon between the commission and the signatory party or political subdivision making the loan.

#### 14.14 Condemnation Proceedings.

(a) The commission shall have the power to acquire by condemnation the fee or any lesser interest in lands, lands lying under water, development rights in land, riparian rights, water rights, waters and other real or personal property within the basin for any project or facility authorized pursuant to this compact. This grant of power of eminent domain includes but is not limited to the power to condemn for the purposes of this compact any property already devoted to a public use, by whomsoever owned or held, other than property of a signatory party and any property held, constructed, operated or maintained in connection with a diversion authorized by a United States Supreme Court decree. Any condemnation of any property or franchises owned or used by a municipal or privately owned public utility, unless the affected public utility facility is to be relocated or replaced, shall be subject to the authority of such state board, commission or other body as may have regulatory jurisdiction over such public utility.

(b) Such power of condemnation shall be exercised in accordance with the provisions of any federal law applicable to the commission; provided that if there is no such applicable federal law, condemnation proceedings shall be in accordance with the provisions of such general state condemnation law as may be in force in the signatory state in which the property is located.

(c) Any award or compensation for the taking of property pursuant to this article shall be paid by the commission, and none of the signatory parties nor any other agency, instrumentality or political subdivision thereof shall be liable for such award or compensation.

#### 14.15 Conveyance of Lands and Relocation of Public Facilities.

(a) The respective officers, agencies, departments, commissions or bodies having jurisdiction and control over real and personal property owned by the signatory parties are authorized and empowered to transfer and convey in accordance with the laws of the respective parties to the commission any such property as may be necessary or convenient to the effectuation of the authorized purposes of the commission.

(b) Each political subdivision of each of the signatory parties is authorized and empowered, notwithstanding any contrary provision of law, to grant and convey to the commission, upon the commission's request, any real property or any interest therein owned by such political subdivisions including lands lying under water and lands already

devoted to public use which may be necessary or convenient to the effectuation of the authorized purposes of the commission.

(c) Any highway, public utility or other public facility which will be dislocated by reason of a project deemed necessary by the commission to effectuate the authorized purposes of this compact shall be relocated and the cost thereof shall be paid in accordance with the law of the state in which the facility is located; provided that the cost of such relocation payable by the commission shall not in any event exceed the expenditure required to serve the public convenience and necessity.

14.16 Rights of Way. Permission is hereby granted to the commission to locate, construct and maintain any aqueducts, lines, pipes, conduits and auxiliary facilities authorized to be acquired, constructed, owned, operated or maintained by the commission in, over, under or across any streets and highways now or hereafter owned, opened or dedicated to or for public use, subject to such reasonable conditions as the highway department of the signatory party may require.

14.17 Penal Sanction. Any person, association or corporation who violates or attempts or conspires to violate any provision of this compact or any rule, regulation or order of the commission duly made, promulgated or issued pursuant to the compact in addition to any other remedy, penalty or consequence provided by law shall be punishable as may be provided by statute of any of the signatory parties within which the offense is committed; provided that in the absence of such provision any such person, association or corporation shall be liable to a penalty of not less than \$50 nor more than \$1,000 for each such offense to be fixed by the court which the commission may recover in its own name in any court of competent jurisdiction, and in a summary proceeding where available under the practice and procedure of such court. For the purposes of this section in the event of a continuing offense each day of such violation, attempt or conspiracy shall constitute a separate offense.

14.18 Tort Liability. The commission shall be responsible for claims arising out of the negligent acts or omissions of its officers, agents and employees only to the extent and subject to the procedures prescribed by law generally with respect to officers, agents and employees of the government of the United States.

14.19 Effect on Riparian Rights. Nothing contained in this compact shall be construed as affecting or intending to affect or in any way to interfere with the law of the respective signatory parties relating to riparian rights.

14.20 Amendments and Supplements. Amendments and supplements to this compact to implement the purposes thereof may be adopted by legislative action of any of the signatory parties concurred in by all of the others.

#### CONSTRUCTION AND SEVERABILITY

14.21 The provisions of this Act and of agreements thereunder shall be severable and if any phrase, clause, sentence or provision of the Delaware River Basin Compact or such agreement is declared to be unconstitutional or the applicability thereof to any signatory party, agency or person is held invalid, the constitutionality of the remainder of such compact or such agreement and the applicability thereof to any other signatory party, agency, person or circumstance shall not be affected thereby. It is the legislative intent that the provisions of such compact be reasonably and liberally construed.

14.22 **Effective Date; Execution.** This compact shall become binding and effective thirty days after the enactment of concurring legislation by the federal government, the states of Delaware, New Jersey and New York, and the Commonwealth of Pennsylvania. The compact shall be signed and sealed in six duplicate original copies by the respective chief executives of the signatory parties. One such copy shall be filed with the Secretary of State of each of the signatory parties or in accordance with the laws of the state in which the filing is made, and one copy shall be filed and retained in the archives of the commission upon its organization. The signatures shall be affixed and attested under the following form:

IN WITNESS WHEREOF, and in evidence of the adoption and enactment into law of this compact by the Congress and legislatures, respectively, of the signatory parties, the President of the United States and the respective Governors do hereby, in accordance with authority conferred by law, sign this compact in six duplicate original copies, as attested by the respective secretaries of state, and have caused the seals of the United States and of the respective states to be hereunto affixed this        day of        , 19    .

## PART II

### ARTICLE 15

#### RESERVATIONS

15.1 In the exercise of the powers reserved to the Congress, pursuant to Section 1.4 of the Compact, the consent to and participation in the Compact by the United States is subject to the following conditions and reservations:

(a) Notwithstanding any provision of the Delaware River Basin Compact the Delaware River Basin Commission shall not undertake any project (as defined in such compact), other than a project for which State supplied funds only will be used, beyond the planning stage until—

(1) such Commission has submitted to the Congress such complete plans and estimates for such project as may be necessary to make an engineering evaluation of such project, including—

(A) where the project will serve more than one purpose, an allocation of costs among the purposes served and an estimate of the ratio of benefits to costs for each such purpose.

(B) an apportionment of costs among the beneficiaries of the project, including the portion of the costs to be borne by the Federal Government and by State and local governments, and

(C) a proposal for financing the project, including the terms of any proposed bonds or other evidences of indebtedness to be used for such purpose; and

(2) such project has been authorized by Act of Congress.

(b) No provision of Section 3.7 of the Compact shall be deemed to authorize the Commission to impose any charge for water withdrawals or diversions from the Basin if such withdrawals or diversions could lawfully have been made without charge on the effective date of the Compact; or to impose any charges with respect to commercial navigation within the Basin, jurisdiction over which is reserved to the Federal Government: *Provided*, That this paragraph shall be applicable to the extent not inconsistent with Section 1.4 of this Compact.



(c) Nothing contained in the Compact shall be deemed to restrict the executive powers of the President in the event of a national emergency.

(d) Notwithstanding the provisions of Article 2, section 2.2 of the Compact, the member of the Commission appointed by the President of the United States and his alternate shall serve at the pleasure of the President.

(e) Nothing contained in the Compact shall be construed as impairing or in any manner affecting the applicability to all Federal funds budgeted and appropriated for use by the Commission, or such authority over budgetary and appropriation matters as the President and Congress may have with respect to agencies in the Executive Branch of the Federal Government.

(f) Except to the same extent that state bonds are or may continue to be free or exempt from Federal taxation under the internal revenue laws of the United States, nothing contained in the Compact shall be construed as freeing or exempting from internal revenue taxation in any manner whatsoever any bonds issued by the Commission, their transfer, or the income therefrom (including any profits made on the sale thereon).

(g) Nothing contained in the Compact shall be construed to obligate the United States legally or morally to pay the principal or interest on any bonds issued by the Delaware River Basin Commission.

(h) Notwithstanding the provisions of section 11.5 or any other provision of the Compact, the furnishing of technical services to the Commission by agencies of the executive branch of the Government of the United States is pledged only to the extent that the respective agencies shall from time to time agree thereto or to the extent that the President may from time to time direct such agencies to perform such services for the Commission. Nothing in the Compact shall be deemed to require the United States to furnish administrative services or facilities for carrying out functions of the Commission except to the extent that the President may direct.

(i) All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting and decorating, of projects, buildings and works which are undertaken by the Commission or are financially assisted by it, shall be paid wages at rates not less than those prevailing on similar construction in the locality so determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and every such employee shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in any workweek, as the case may be. A provision stating the minimum wages thus determined and the requirement that overtime be paid as above provided shall be set out in each project advertisement for bids and in each bid proposal form and shall be made a part of the contract covering the project. The Secretary of Labor shall have, with respect to the administration and enforcement of the labor standards specified in this provision, the supervisory, investigatory and other authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267, 5 U.S.C. 133z-15, and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948, as amended; 40 U.S.C. 276(c)).

(j) Contracts for the manufacture or furnishing of materials, supplies, articles and equipment with the Commission which are in excess of \$10,000 shall be subject to the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35 et seq.).

(k) Notwithstanding any other provision of this Act, nothing contained in this Act or in the Compact shall be construed as superseding or limiting the functions, under any other law, of the Secretary of Health, Education, and Welfare or of any other officer or agency of the United States, relating to water pollution: *Provided*, That the exercise of such functions shall not limit the authority of the Commission to control, prevent, or abate water pollution.

(l) The provisions of section 8.4 of Article 8 of the Compact shall not be construed to apply to facilities operated pursuant to any other Federal law.

(m) For purposes of the Act of June 25, 1948, 62 Stat. 982, as amended (Title 28, U.S. Code, chapter 171, and sections 1346(b) and 240(b)) and the Act of March 3, 1887, 24 Stat. 505, as amended (Title 28, U.S. Code, sections 1402, 1491, 1496, 1501, 1503, 2071, 2072, 2411, 2412, 2501), and the Act of June 11, 1946, 60 Stat. 237, as amended (Title 5, U.S. Code, sections 1001 and 1011, Title 50 App. U.S. Code, section 1900), the Commission shall not be considered a Federal agency.

(n) The officers and employees of the Commission (other than the United States member, alternate United States member, and advisors, and personnel employed by the United States member under direct Federal appropriation) shall not be deemed to be, for any purpose, officers or employees of the United States or to become entitled at any time by reason of employment by the Commission to any compensation or benefit payable or made available by the United States solely and directly to its officers or employees.

(o) Neither the Compact nor this Act shall be deemed to enlarge the authority of any Federal agency other than the Commission to participate in or to provide funds for projects or activities in the Delaware River Basin.

(p) The United States district courts shall have original jurisdiction of all cases or controversies arising under the Compact, and this Act and any case or controversy so arising initiated in a State Court shall be removable to the appropriate United States district court in the manner provided by § 1446, Title 28 U.S.C. Nothing contained in the Compact or elsewhere in this Act shall be construed as a waiver by the United States of its immunity from suit.

(q) The right to alter, amend, or repeal this Act is hereby expressly reserved. The right is hereby reserved to the Congress or any of its standing committees to require the disclosure and furnishing of such information and data by the Delaware River Basin Compact Commission as is deemed appropriate by the Congress or any such committee.

(r) The provisions of section 2.4 and 2.6 of Article 2 of the Compact notwithstanding, the member and alternate member appointed by the President and advisor there referred to may be paid compensation by the United States, such compensation to be fixed by the President at the rates which he shall deem to prevail in respect to comparable officers in the executive branch.

(s) 1. Nothing contained in this Act or in the Compact shall impair or affect the constitutional authority of the United States or any of its powers, rights, functions, or jurisdiction under other existing or future legislation in and over the area or waters which are the subject of the Compact including projects of the Commission: *Provided*, 75 STAT. 715.  
75 STAT. 716. That whenever a comprehensive plan, or any part or revision thereof, has been adopted with the concurrence of the member appointed by the President, the exercise of any powers conferred by law on any officer, agency or instrumentality of the United States with regard to water and related land resources in the Delaware River Basin shall not substantially conflict with any such portion of such comprehensive plan and the provisions of Section 3.8 and Article 11 of the Compact shall be applicable to the extent necessary to avoid such substantial conflict: *Provided further*, That whenever the President shall find and determine that the national interest so requires, he may suspend, modify or delete any provision of the comprehensive plan to the extent that it affects the exercise of any powers, rights, functions, or jurisdiction conferred by law on any officer, agency or instrumentality of the United States other than the Commission. Such action shall be taken by executive order in which such finding and determination shall be set forth.

2. For the purposes of paragraph 1 hereof, concurrence by the member appointed by the President shall be presumed unless within 60 days after notice to him of adoption of the comprehensive plan, or any part or revision thereof, he shall file with the Commission notice of his nonconcurrence. Each concurrence of the member appointed by the President in the adoption of the comprehensive plan or any part or revision thereof may be withdrawn by notice filed with the Commission at any time between the first and sixtieth day of the sixth year after the initial adoption of the comprehensive plan and of every sixth year thereafter.

(t) In the event that any phrase, clause, sentence or provision of Section 1.4 of Article 1 of the Compact, is declared to be unconstitutional under the constitution of any of the signatory parties, or the applicability thereof to any signatory party, agency or person is held invalid by a court of last resort of competent jurisdiction, the United States shall cease to be a party to the Compact, except to the extent that the President deems remaining a party necessary and proper to protect the national interest, and shall cease to be bound by the terms thereof.

(u) All Acts or parts of Acts inconsistent with the provisions of this Act are hereby amended for the purpose of this Act to the extent necessary to carry out the provisions of this Act: *Provided, however*, That no act of the Commission shall have the effect of repealing, modifying or amending any Federal law.



## EFFECTUATION

15.2 (a) The President is authorized to take such action as may be necessary and proper, in his discretion, to effectuate the Compact and the initial organization and operation of the Commission thereunder.

(b) Executive departments and other agencies of the executive branch of the Federal Government shall cooperate with and furnish appropriate assistance to the United States member. Such assistance shall include the furnishing of services and facilities and may include the detailing of personnel to the United States member. Appropriations are hereby authorized as necessary for the carrying out of the functions of the United States member, including appropriations for the employment of personnel by the United States member.

15.3 Effective Date: This Act shall take effect immediately.

Approved September 27, 1961.





